



# CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Wednesday, the 28th October, 1953

## OFFICIAL REPORT

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### CONTENTS

	PAGES
Report of the Basic Principles Committee — <i>Consideration paragraph by paragraph not concluded</i> ... ..	515—569

#### PART I—

Chapter II—Directive Principles  
of State Policy—  
Paragraph 2.

# CONSTITUENT ASSEMBLY OF PAKISTAN

Wednesday, the 28th October, 1953

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Half Past Ten of the Clock, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

REPORT OF THE BASIC PRINCIPLES COMMITTEE—*Consideration continued.*

## Part I

CHAPTER II—DIRECTIVE PRINCIPLES OF STATE POLICY—*Consideration contd.*

### Paragraph 2—Sub-paragraph (4)

**Mr. President :** We resume further consideration para. by para. of the Report of Basic Principles Committee. Paragraph 2. Mr. Bhupendra Kumar Datta !

**Mr. Bhupendra Kumar Datta** (East Bengal : General): I beg to move :

“That sub-paragraph (4) of paragraph 2 be omitted.”

This sub-paragraph (4) proposes to re-draft the existing laws according to the Shariat. It is said that of the various schools of Shariat the Hanafite one alone consists of 14 large volumes in stiff Arabic. Everyone of the Members on the other side may claim to know all about it. But some of us on this side have expressed their misapprehension naturally based on a scrappy knowledge of it. Attempt was made to remove our misconception and re-assure us that as true Muslims come up we shall have no cause of fear. But on their own showing deviation was far more universal and ubiquitous than devotion. And the true Muslims of their conception may or may not come up in a millennium. So we are apprehensive of what will remain of the non-Muslims in the State by that time. So the re-assurance failed to re-assure us.

Sir, we are told that ‘Tabligh’ is a fundamental right of every Muslim. That fundamental right must find some expression in the re-drafted laws. Now Tabligh means propagation of Islam among non-Muslims.

**Mr. Mafizuddin Ahmad** (East Bengal : Muslim) : Among the Muslims also.

**Mr. Bhupendra Kumar Datta :** What will the effect of that fundamental right on the non-Muslims in the State in their present state of depression ? We have therefore very grave concern about this re-drafting business.

Sir, this re-drafting will most probably be done by a Board or a Committee for the purpose that may be set up. Now how will the different sections of non-Muslims be represented on that Board or Committee in order to see that their rights and their interests may not be in jeopardy. The assurance will be forthcoming that the re-drafted laws will be presented before this House. Well, the results are a fore-gone conclusion, only numbers counting here. (*Interruption*). Sir, apart from the non-Muslims what is going to happen to the different sects within Islam.

**Dr. Mahmud Husain** (East Bengal : Muslim) : Why do you worry about that ?

**Mr. Bhupendra Kumar Datta** : The other day it was eloquently declared that Islam has no sects within it. If that is so what is the meaning of the amendment\* by Honourable Mr. Kizilbash and then what is the significance of the terrible incidents that happened in Lahore about last year and the beginning of this year, in Lahore, Karachi and elsewhere ? Did they not seek to eliminate one of the sects ? Sir, I find that this sub-paragraph is very dangerous, not only for the non-Muslims in the State but also for the different sects and as such it is dangerous to the State as a whole. Therefore I urge that it may be deleted.

**Mr. President** : Motion moved :

“That sub-paragraph (4) of paragraph 2 be omitted.”

**Shri Dharendra Nath Datta** (East Bengal : General) : Mr. President ! Sir, I have a similar motion as that of my honourable friend Mr. B. K. Datta that the sub-para. saying—

“Suitable steps should be taken for bringing the existing laws into conformity with the Islamic principles, and for the codification of such injunctions of the Holy Quran and the Sunnah as can be given legislative effect.”  
be omitted.

Sir, this sub-para occurs in Chapter II which deals with Directive Principles of State Policy ; it is not in the operative part, but still, Sir, directive principles of the State require that it is the duty of the State to do what has been enumerated in para 2 of the Directive Principles of the State Policy. The existing laws—there are various laws such as Penal Laws, Criminal Laws, Civil Laws—of the country are there and an attempt has been made for codification of such injunction of the Holy Quran as can be given legislative effect. Of course, Sir, while dealing with the general discussion, my friend, Prof. Raj Kumar Chakraverty referred to certain Sunnah.

**Prof. Raj Kumar Chakraverty** (East Bengal : General) : Surah !

**Shri Dharendra Nath Datta** : Yes, Surah and, Sir, the interpretation given to them was not of Prof. Rajkumar Chakraverty, but that they were given by a Muslim. I can presume that he must also be well versed in the Quran and the Sunnah. He gave this interpretation and he doubted the possibility of the Sunnah being consistent with the existing laws of the country. And, Sir, this doubt is not only expressed by us here, but if you read the columns of the papers, you will find that the doubts that we are expressing here, are also expressed by a large number of Muslims. Sir, in this House, there is not a single Muslim present who has got the courage to dobut it, but we have taken courage and are giving vent to the expressions that have been made by a large section of Muslims that it is not possible to bring the existing laws into conformity with the Holy Quran and the Sunnah. We are of the opinion—you may not agree with us—that this will land you into trouble. We are of the opinion that politics should be freed from religion because religion is a personal matter. In this we are not only the persons who hold this opinion, but this is even the opinion expressed by the Father of the Nation, Quaid-i-Azam Mohammad Ali Jinnah. Whatever interpretation

\*It reads thus—

“That to paragraph 3, the following new sub-paragraph (2) be added and paragraph 3 be renumbered as 3(1)—

‘(2) The Holy Quran and the Sunnah, wherever these expressions occur shall mean, when applied to any sect, such interpretation thereof, as is recognised and accepted by that particular sect.’”

you may seek to put upon his first statement in the inaugural address by him delivered on the 11th August, but my friend and esteemed friend, Sardar Abdur Rab Khan Nishtar, says that we are not hypocrats and, therefore, he wanted that the Head of the State shall be a Muslim....

**Sardar Abdur Rab Khan Nishtar** (Punjab : Muslim) : On a point of order. It is really very strange that all sorts of extraneous matters are brought into discussion with regard to a particular point. I would submit, Sir, that this discussion has taken place elaborately and everybody has expressed his opinion. Now, according to my humble opinion, it is not open to any member to bring into discussion other matters. There is a particular clause which is under discussion and honourable members may be asked to confine their remarks to that particular clause.

**Shri Dharendra Nath Datta** : Mr. President ! Sir, I know that my statement is not relevant to this para, but, Sir, I have not finished my sentence because I was saying that politics should be freed from religion. That is my view—and this view may not be accepted by you—but politics should be freed from religion. This is the warning I gave you previously also and I am not the only person who has given you this warning—my warning will not have any effect upon you—this warning has been given to you by the Father of the Nation. If you put a wrong interpretation on his statement, then you shall be landing yourself into difficulties. You say you are not hypocrats, but I say you are hypocrats because you have put wrong interpretation upon the warning given by the Quaid-i-Azam.

**Mr. President** : Did he say anything about the laws to be brought into conformity with the Holy Quran and the Sunnah ?

**Shri Dharendra Nath Datta** : Sir, I read from his speech :

“Therefore, we must learn a lesson from this. You are free to go to your temples ; you are free to go to your mosques or to any other place of worship in the State of Pakistan. You may belong to any religion or caste or creed ; that has nothing to do with the business of the State.”

That is the warning, Sir, given by him that politics should be free from religion—

“You may belong to any religion or caste or creed ; that has nothing to do with the business of the State.”

Furthermore, I read, Sir,—

“But I must think it my duty to sound a note of warning that really in politics, in the course of time, Hindus would cease to be Hindus and Muslims will cease to be Muslims not in the religious sense because that is a personal faith of each individual, but in the political sense, as citizens of the State.”

Sir, I shall not waste the time of the House any more because it is useless to do so. I know my statement will have no effect upon those for whom it is meant.

With these few words, Sir, I submit that this will land you into difficulties if you try to introduce it.

**Mr. Jnanendra Chandra Majumdar** (East Bengal : General) : \*Sir, I have also similar amendment which I move :

“That sub-paragraph (4) of paragraph 2 be omitted.”

Sir, the reasons for its omission have been given exhaustively by previous speakers, Messrs. B. K. Dutta and D. N. Dutta. So, I need not repeat the arguments advanced by them, but I will try to remove some of the misconception that have come in while I was speaking the other day. You know, Sir, the other day Maulana Akram Khan moved the

\*Speech not corrected by the Honourable Member.

amendment that the word "God" be replaced by the word "Allah" and to that I had submitted that the word "God" should be retained. My reasons were.....

**Mr. President :** Does that arise now ?

**Mr. Jnanendra Chandra Majumdar :** \*It arises, because while opposing that amendment there might have been some misconception. So, I am explaining how that misconception arises.

**Mr. President :** I have not been able to follow. However, let me see further what you want to say.

**Mr. Jnanendra Chandra Majumdar :** \*Sir, the other day I was opposing the amendment moved by Maulana Akram Khan and was trying to show why the word "God" should be retained.

**Mr. President :** That was made quite clear by Mr. Chattopadhyaya at that time.

**Mr. Jnanendra Chandra Majumdar :** \*Unfortunately, my speech was misunderstood by both Mr. Dharendra Nath Dutta and Mr. Kamini Kumar Dutta. Sir, I have very great respect for both the Duttas—Mr. Dharendra Nath Dutta is my best friend and I am grateful for his love and affection for me ; I have great regard for Mr. Kamini Kumar Dutta for his ability. But in spite of this, probably due to excessive love for me, they misconceived my idea and became nervous and put something which was quite contrary to what I would have liked to say and so, there might have been some misconception. So, Sir, I am saying that my objection is wholly due to the fact that politics and religion should be kept separate and on no account they should be mixed up. I am not opposing it because it is Islamic but I am opposing it because you are taking some religious scriptures. I will oppose it even if it is from 'Gita' or 'Veda'. It is not the trend of the modern world. Sir, there is scope for misconception outside. You know the other day we invited some guests, even the Governor-General.....

**Mr. President :** Has it got any relation to that ? Please speak on the clause. Do not go astray. What you have already said was not relevant but as you insisted on it, I allowed you. Please come to the clause.

**Mr. Jnanendra Chandra Majumdar :** \*Sir I was saying that the religion and politics should not be mixed up. Moreover it is quite impracticable to bring the Islamic laws as it were in the 7th century. So, Sir, I support this amendment.

**Sardar Abdur Rab Khan Nishtar :** Sir, the Honourable Members know that so far as the future laws are concerned, it is proposed in the Basic Principles Committee Report, section 3, which will come under discussion in the near future, that no legislature in Pakistan shall enact any law which is repugnant to the Quran and Sunnah. So far as the existing laws are concerned, quite naturally if you want that in your country the laws should be in accordance with the Quran and Sunnah, we cannot say that the existing laws may continue for ever even if they are against the Quran and the Sunnah ; but so far as the future is concerned, no new legislation will be passed against the Quran and Sunnah. That will be an inconsistent attitude. Because the existing laws have to be examined in detail to find out in what form and manner they can be brought in conformity with the Quran and Sunnah. It was not possible to state in a clause in the Constitution that all provisions of existing laws which are against the Quran and Sunnah shall be considered as repealed. For this

\*Speech not corrected by the Honourable Member.

purpose some time back the Pakistan Government set up a Committee presided over by a Judge of the Federal Court to examine the whole field of law and to recommend as to how to bring them in conformity with the Quran and Sunnah. That Committee is already examining the matter. What we have said in this clause is that suitable step should be taken for bringing the existing laws in conformity with the Islamic principles. After the report of that Committee is received, only then the question will be taken up as to how to proceed in the matter. A further direction has been given for the codification of such injunctions of the Holy Quran and the Sunnah as can be given legislative effect. It is not in respect of every injunction that we require a legislative measure. My friend Mr. Dutta quoted a speech of the Quaid-i-Azam and he thinks that the Muslim Members of this House, I mean Members belonging to the Muslim League Party, are ignoring the declarations of Quaid-i-Azam. With due respect to him, I would say, Sir, and I am using a very mild phrase, that such an allegation is far from truth. What is the actual position. Here in this House some time back, fundamental rights were adopted and I will read a few of them with a view to show to the House and my honourable friend whose memory has become defective, that we in this House are proceeding according to the declarations of the Quaid-i-Azam. Now these are the fundamental rights and rights which will be justiciable. What do they say? I will read fundamental right No. 10 :

"Freedom of conscience and the right to profess, practise and propagate religion are guaranteed subject to public order and morality."

This by the way disposes of the so-called apprehension of Mr. B. K. Dutta with regard to "Tabligh". This is a fundamental right no doubt but this has been guaranteed to them also : freedom to profess, freedom to propagate and freedom to practise, and they have approved of it. Do they want to take away this right from the Muslims? I do not know how can this fundamental right be a subject-matter of criticism from that side. I go on further, and read fundamental right No. 11 : It runs thus :

"Subject to public order and morality, every religious denomination or any section thereof shall enjoy freedom in the management of its religious affairs including the establishment and maintenance of religious and charitable institutions and the acquisition of movable and immovable property for that purpose."

Then comes the fundamental right No. 12 :

"Subject to regulations to be made in this behalf every religious denomination or any section thereof shall have the right to procure exclusively for religious purposes all articles which are proved as being essential for worship in accordance with the rules, rites, ceremonies and customs of that denomination."

Then I come to fundamental right No. 13 :

"(1) No person attending any educational institution shall be required to take part in any religious instruction or to attend any religious worship other than that of his own community or denomination."

What more do my friends want? Are we not very faithfully carrying out the pledges of the Quaid-i-Azam? Why do they misinterpret this clause? These fundamental rights are already part and parcel of the proposed Constitution. They have already been accepted by this House and here is something for which I remember the Secretary of the Congress Party had congratulated the then Leader of the House when these fundamental rights were brought before the House and approved. Today we merely say in consistency with that attitude that we have to bring our laws in conformity with the Quran and Sunnah and again I say that the Quran and Sunnah safeguard the personal laws of the non-Muslims without in any way interfering with their religious ceremonies. So far as fundamental rights are concerned they are clear on this

[Sardar Abdur Rab Khan Nishtar]

point. The clauses which we are discussing here are merely directive principles of State policy and are not justiciable but so far as the fundamental rights are concerned they in all probability will be justiciable. So I would respectfully submit that the arguments that have been advanced against this clause have no force. My friend also said that it may be argued that after all these laws would come up before the legislature and the representatives of the minorities in the legislature will get an opportunity to discuss them fully, and object to them if they are not in accordance with their interest. My friend, the mover of the amendment said, "Yes, it is correct in theory but in practice it will be the majority that will take decision" meaning thereby that the majority will always be unreasonable. Assuming that this apprehension is correct and my friend cannot get rid of this idea that the majority community in Pakistan will be unreasonable, may I tell him, what difference will it make if this provision is not in the Constitution because the absence of a provision of this nature in the Constitution will not prevent the majority, if they are unreasonable, to come forward with unreasonable laws and place them before the legislature. The proposed omission will help in no way if the majority become unreasonable. Sir, we have to start with this assumption that we have to be fair to each other. If you start with the assumption the majority will be unreasonable. The omission of this clause will not help my friends in any way. Therefore, Sir, I oppose the amendment because it has no reason to support it.

**The Honourable Mr. Abdul Hamid** (East Bengal : Muslim): \*Sir, this clause of the chapter has reference to the future legislation. But our difficulty is that in the Objectives Resolution which we have accepted in which we say :

"Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam, shall be fully observed...."

How we can implement them without having a provision like the one provided in the Directive Principle contained in sub-clause (4). If there is a legislation made which offends against the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam, then we have to remove it in order to make that clause operative. Go to the next clause. It says :

"Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accord with the teachings and requirements of Islam, as set out in the Holy Quran and the Sunnah ;"

So, Sir, some sort of change in the existing legislation is necessary to bring the existing legislation in conformity with the principles of the Quran and Sunnah to delete any, if there be any, such legislation. Therefore this clause gives a direction that we should go in for some alteration in the existing laws also. We cannot do without this provision. After we have accepted the Objectives Resolution, very little remains for the Opposition to oppose such a direction as is found in sub-clause (4) of clause 2 of the Directives. With these few words, Sir, I oppose the amendment.

**Mr. President :** The question is :

"That sub-paragraph (4) of paragraph 2 be omitted."

The motion was negatived.

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\* Speech not corrected by the Honourable Member.

**Mr. Bhabesh Chandra Nandy** (East Bengal : General) : Sir, I move :

“That to sub-paragraph (4) of paragraph 2, the following be added at the end :—

‘Keeping in view full respect for the personal laws and also for social and cultural set-up of the non-Muslims of Pakistan’.”

Sir, sub-paragraph (4) of paragraph 2 reads :

“Suitable steps should be taken for bringing the existing laws into conformity with the Islamic principles, and for the codification of such injunctions of the Holy Quran and the Sunnah as can be given legislative effect.”

My amendment adds the following to the above sub-paragraph :

“Keeping in view full respect for the personal laws and also for social and cultural set-up of the non-Muslims of Pakistan.”

Sir, it has been assured to us in this House that the Muslim Law makes ample provision for respect of the personal laws of non-Muslims and that is the only argument that I can anticipate from the Muslim Members for not including this amendment.

Now, Sir, there are many more things implied in the laws that can be deducted from the Holy Quran, but still we are inserting certain clauses to conform them, to accept them and adopt them. You can understand the misgivings that will give rise in the minds of non-Muslims if we do not add these few lines of my amendment to this sub-paragraph (4) of paragraph 2 as you are going to adopt it.

Sir, even now when there is no such clause in the Constitution, we get reports that illiterate people, particularly the fanatic sections, do not allow the non-Muslims, specially Hindus, to have their *kirtans* i.e. prayer with music on the plea that it is an Islamic State and all laws are in accordance with the Quran and so one cannot play *bhajan* or *kirtan* with musical instruments. I know this is not the attitude of the educated people among the Muslims, but in a country where not even 10 per cent can read a word or write their own name, fanaticism is the rule and rationalism is exception. So what I want to add to this sub-paragraph is nothing new. Already Mr. Brohi and other members have said on the floor of this House that it is imperative in the Islamic law that the personal law and other legislation that affects the mode of life, the social and personal life of the non-Muslims will not be affected. If that is so, there cannot be any reasonable objection to adding these few lines to this clause. This will simply confirm what is already admitted and allay the misgivings that may arise in the minds of non-Muslims. Sir, I hope that the argument which I am adducing will carry conviction at least to our friends here. They should realise how much helpful it will be in doing away with the misgivings which may arise in the minds of non-Muslims. The argument may be put from the other side that when it is already implied in the Islamic law, where is the good of putting it. Even though you are bound to follow the injunctions of the Quran, you are making provisions and legislating that you will follow the injunctions of the Quran and Sunnah. When you are doing like that why should you not make a provision so that you make the non-Muslims at least understand that you have no mind to interfere with the personal laws and the mode of life of the non-Muslims, so that there may not be any interference in the social and cultural set-up of the non-Muslims.

Sir, these few words are sufficient to explain the reason why I am insisting to add this clause.

**Mr. President** : Motion moved :

“That to sub-paragraph (4) of paragraph 2, the following be added at the end :—

‘Keeping in view full respect for the personal laws and also for social and cultural set-up of the non-Muslims of Pakistan.’.”

**The Honourable Mr. A. K. Brohi** (Sind : Muslim) : May I respectfully request that you kindly consider the propriety of taking up the next two amendments together. Sir, we would like to hear Prof. Chakraverty on his amendment, as in substance both the amendments converge on the same question. We shall then be able to make suggestions after we have heard him.

**Mr. President** : Prof. Chakraverty !

**Prof. Raj Kumar Chakraverty** : Sir, I move :

"That to sub-paragraph (4) of paragraph 2, the following proviso be added at the end :—

"Provided that such steps should not affect, disturb or nullify any of the personal laws of the non-Muslim communities."

We have heard it from various responsible Members of this House that even though the laws may be codified in accordance with the Quran and the Sunnah, they will not affect the personal laws of the non-Muslims.

Sir, I want to remind the House that still there are nearly one crore of non-Muslims inhabiting this country, and when such a law based on the Quran and Sunnah is passed, there will be apprehensions in the mind of non-Muslim community. You know, Sir, the personal laws of non-Muslims in many respects are sometimes at variance with the laws of the Quran and Sunnah. I submit that when a law is considered by a court, it is the words of the Law which count. The assurances given by the honourable mover of a Bill in the Legislature, or the discussions that take place in the House in connection with the measure are not taken into consideration when the courts adjudicate on a question of law. Therefore, Sir, we want to doubly re-assure ourselves that there will be no interference whatsoever with our personal laws in any way even though the existing laws may be codified in accordance with the Quran and the Sunnah. I believe the present set of my friends here sincerely believe that there should be no interference with the personal laws of non-Muslims, but let me tell them that they are not immortals. In future different set of people will be coming. If you really intend that there should be no interference so far as the personal laws of the minorities are concerned, something should be put in black and white, otherwise the position of non-Muslims with regard to these new codified laws may be difficult. Assurances from persons are not considered, as I have said before, while interpreting the questions of law, and therefore, such a provision should be included here.

**Mr. President** : Motion moved :

"That to sub-paragraph (4) of paragraph 2, the following proviso be added at the end :—

"Provided that such steps should not affect, disturb or nullify any of the personal laws of the non-Muslim communities."

**The Honourable Mr. A. K. Brohi** : Sir, without making a long speech I should deal only with the specific arguments that have been made. I would like to know from the movers of both the amendments, whether an amendment of sub-clause (4) of paragraph 2 the following effect would be acceptable to them, namely, that we proceed to add the following words :—

"duly safeguarding the personal laws of non-Muslims as has been enjoined by the Holy Quran and the Sunnah."

Sir, I will now read the whole sub-clause :

"Suitable steps should be taken for bringing the existing laws into conformity with the Islamic principles, and for the codification of such injunctions of the Holy Quran and the Sunnah as can be given legislative effect, duly safeguarding the personal laws of non-Muslims as has been enjoined by the Holy Quran and the Sunnah."

In other words the object of these additional words is to show that the duty to safeguard the personal laws of non-Muslims is itself enjoined by the Holy Quran and Sunnah. Sir, let us be consistent with the principles with which we start. The principle is to bring the existing laws into conformity with the Islamic principles, and for the codification of such injunctions of the Holy Quran and the Sunnah as can be given legislative effect. If in the context of this statement you are to bring in some such ideas as have been reflected in the two amendments, to be consistent, we must say that we are doing that because it has been enjoined by the Holy Quran and Sunnah. I think there will be no objection to this. I hope, Sir, that I have made myself clear. My suggestion is that we proceed to add, after the words "effect" in sub-clause (4) of paragraph 2, the following words :—

"duly safeguarding the personal laws of non-Muslims as has been enjoined by the Holy Quran and the Sunnah."

**Mr. Bhabesh Chandra Nandy :** Sir, the difficulty is that non-Muslims are not supposed to be fully conversant with the Quran and Sunnah. If we make the provision as suggested by the Honourable Law Minister—

"duly safeguarding the personal laws of the non-Muslims as has been enjoined by the Holy Quran and the Sunnah."

the difficulty will arise that the non-Muslims will not know what are their exact rights. Sir, I agree, with the spirit of what has been proposed by Mr. Brohi, but he should change the language, so that a non-Muslim can know what is his right and what is not his right. How can you explain to the non-Muslims that their personal laws will be safeguarded as has been enjoined by the Holy Quran and the Sunnah, because they can neither read nor understand the Quran and the Sunnah nor can know what is in it. The non-Muslims should be able to know exactly and realise fully what are their rights.

**Shri Kamini Kumar Datta** (East Bengal : General): Sir, has the expression "as has been enjoined by the Holy Quran and the Sunnah" been used for limiting the personal rights or for making them more imperative ?

**The Honourable Mr. A. K. Brohi :** Mr. President ! the last speaker has amply illustrated the import of the words to which he has referred, namely, "as has been enjoined by the Holy Quran and the Sunnah". As I said before, Sir, if we read the whole of the sub-paragraph (4), as it is in the unamended form, the effect of that paragraph is to secure consistency between the existing law on the one hand and the operation of Islamic principles on the other. It also proceeds to add that such injunctions as can be given legislative effect have to be codified. If some safeguard is demanded now for the personal law of non-Muslims, it is better to add that they are duly safeguarded because that has been enjoined by the Holy Quran and the Sunnah. It is necessary for the simple reason that the duty to safeguard the personal laws of minorities also emanates from the law which are revealed in the Holy Quran and the Sunnah. So, Sir, the point is not to curtail the personal rights of non-Muslims, but to emphasise the principle, namely, that it is incumbent in accordance with the law which is contained in the Holy Quran and the Sunnah, and that we feel it our duty to concede all the safeguards for the personal laws of the non-Muslims. I hope, Sir, the point would not be pressed further.

**Shri Sris Chandra Chattopadhyaya** (East Bengal : General) : Sir, I think we can keep sub-clause (4) as it is in the existing form, and just add "duly safeguarding the personal laws of non-Muslims". Otherwise, there will be some misapprehensions about the rights of non-Muslims.

**The Honourable Mr. A. K. Brohi :** If the ambition of the House is to safeguard against all possible misapprehensions—rational, irrational, imaginary, illusory and insubstantial—then I am afraid we will have to sit here till Doomsday trying to solve the problems of the Constitution, but if the question is one of dealing with rational apprehension then obviously it requires some manner of repudiation. I was quoted on this point by Mr. Nandy when he said that even Mr. Brohi during his statement in the general debate said that Islam directs that we should safeguard the personal laws of non-Muslims. Now in the context of this paragraph, what is the harm to the other side if we say that the sanction, by reason of which we want to ensure that the personal laws of non-Muslims will be safeguarded is contained in the Holy Quran and the Sunnah? What will be the harm? We are making a statement in the Constitution that in the way we understand the Holy Quran and the Sunnah, it is our duty that due safeguards against the possible invasion of the personal laws of the non-Muslims should be enacted. I think they are unnecessarily worried about this expression, forgetting that the idea merely is to state the premises, the source as to why we want to safeguard the rights and the personal laws of minorities.

With this explanation I hope the grievances or the apprehensions of the Members opposite will have been removed.

**Shri Dharendra Nath Datta :** Of course, I do not know whether it will be acceptable or not but I want to put a verbal change just like this—

“duly safeguarding the personal laws of the non-Muslims as enjoined by the Holy Quran and the Sunnah.”

**Shri Kamini Kumar Datta :** As has been enjoined!

**Shri Dharendra Nath Datta :** Do you think it would be better? I do not know whether I am correct, but by it your object will be served and it will not limit, it will rather extend—we say—

“duly safeguarding the personal laws of the non-Muslims as it is enjoined by the Holy Quran and the Sunnah.”

**The Honourable Mr. A. K. Brohi :** Very good.

**Mr. President :** “As it is enjoined”.

**The Honourable Mr. A. K. Brohi :** “As it is enjoined” might be faulty English grammar because you do not need ‘it’ there. “As is enjoined” is good enough. You need not add “it”.

**Shri Kamini Kumar Datta :** “As has been enjoined” is better.

**The Honourable Mr. A. K. Brohi :** Then you settle it between yourselves.

**Mr. Fazlur Rahman (East Bengal : Muslim) :** They have settled.

**Shri Sris Chandra Chattopadhyaya :** It is better than what was suggested by Mr. Datta but what I say is that you omit “as enjoined by”, etc.

**Mr. President :** So, I am not quite clear whether the suggestion of Mr. Brohi is acceptable or not, because Mr. Chattopadhyaya has said that the words “as enjoined by the Quran and Sunnah” should be omitted altogether.

**Shri Sris Chandra Chattopadhyaya :** We let clause 4 stand as it is and only add “safeguarding the personal laws of the non-Muslims”.

**Mr. President :** That is there.

**Shri Sris Chandra Chattopadhyaya :** No, no.

**Mr. President :** Well, Mr. Chattopadhyaya ! I do not understand what distinction you are going to make because it is the proposal of Mr. Brohi that at the end of the clause these words may be added—

“duly safeguarding the personal laws of the non-Muslims as has been enjoined by the Holy Quran and the Sunnah.”

That is his proposal. You are not saying anything different from what he suggests.

**Shri Sris Chandra Chattopadhyaya :** As it is, clause (4) reads—

“(4) Suitable steps should be taken for bringing the existing laws into conformity with the Islamic principles, and for the codification of such injunctions of the Holy Quran and the Sunnah as can be given legislative effect.”

I suggest that after this should be added the words “safeguarding the personal laws of the non-Muslims”. After that there should be a full stop.

**Mr. President :** If you put a full stop there then to make it a good English sentence the wording will have to be changed !

**Shri Sris Chandra Chattopadhyaya :** I only want these words to be added—“safeguarding the personal laws of the non-Muslims.”

**Shri Dharendra Nath Dutta :** He wants to omit the words “as has been enjoined”, etc.

**Mr. President :** I was saying the same thing and he was protesting. However, it appears to me that there is no agreement amongst the members on this side but I would like to ask one of the movers of the two amendments, Mr. Chakraverty, what he has to say in the matter.

**Prof. Raj Kumar Chakraverty :** I do not question the *bona fides* of the Honourable Member in any way, but my difficulty is that I do not know what has been actually enjoined by the Quran and the Sunnah with regard to the personal laws of the Hindus. Therefore, with that sort of ignorance, I cannot be a party to the addition of those particular words “as enjoined by the Quran and the Sunnah”. That is my difficulty. I neither accept nor reject those words.

**Mr. President :** Mr. Nandy, are you agreeable to the amendment as proposed ?

(After a pause)

**Mr. President :** You need not say anything, it is the other person who moved it.

Then none of the two Members accepts the suggestion.

**The Honourable Mr. A. K. Brohi :** Then I withdraw it.

**Mr. President :** Their suggestion is whether you can omit the words “as has been enjoined by the Holy Quran and the Sunnah”, because, as has been pointed out, their apprehension is two-fold. First of all, they do not know what is in the Holy Quran and the Sunnah and, secondly, they feel that it might be misconstrued, to mean that you are safeguarding their personal laws only to the extent enjoined by the Holy Quran and the Sunnah. If it is not enjoined there personal laws may not be safeguarded. They think it may mean that.

**Sardar Abdur Rab Khan Nishtar :** With your permission, Sir, I would like to say that Mr. Chakraverty has stated in his speech that no doubt assurances have been given to them that their personal laws

[Sardar Abdur Rab Khan Nishtar]

are safeguarded by the Quran and the Sunnah but the assurance is contained in speeches : there is nothing in the Constitution, and therefore it cannot allay their apprehensions. To me his point of view seems to be that it should be stated in this clause that the Holy Quran and the Sunnah does enjoin safeguarding the personal laws of non-Muslims and that due regard should be paid to them. Though it was not a very strong apprehension, but because it was there we wanted to meet his point. If it is not acceptable to non-Muslims we cannot force it upon them. In that case we stick to the original clause. The amendment proposed by them is not acceptable to us because it would mean that we are excluding something from the Quran and the Sunnah, that is not our attitude. Our attitude is that the Holy Quran and the Sunnah enjoin upon us that we should pay due regard to the personal laws of the non-Muslims—that attitude was adopted in the past ; it is still our attitude and that is going to be our attitude in the future—because it is a specific direction given to us ; it is a religious direction for us. We stand by it. But the amendment as proposed by them cannot be acceptable to us, and it is for them to decide about their attitude.

**Mr. President :** May I make one suggestion ? To my mind it appears that the amendment proposed by Mr. Brohi may be liable to this misconstruction that personal laws will be safeguarded only to the extent enjoined by the Holy Quran and the Sunnah. It may be liable to that misconstruction but that is not the intention either of Mr. Brohi or of anyone else. Therefore, I propose that instead of placing those words at the end, we say something like this—

“duly safeguarding, as has been enjoined by the Holy Quran and the Sunnah, the personal laws of the non-Muslims.”

If you say that, then it is quite clear.

**The Honourable Mr. A. K. Brohi :** I have no objection, Sir.

**Mr. President :** If you accept that then it is only an addition—it may be an unnecessary addition—but it will give them the satisfaction that their interests will be safeguarded as it has been enjoined upon the Muslims to do that by the Holy Quran and the Sunnah. Therefore, I do not think there could be any objection to your accepting this construction.

**The Honourable Mr. A. K. Brohi :** I accept that.

**Mr. President :** Then I may put that in the amendment of Mr. Nandy. Will that do ?

**Several Honourable Members :** Yes.

**Mr. President :** Then the question is :

“That at the end of sub-paragraph (4), the following may be added :—

‘duly safeguarding, as has been enjoined by the Holy Quran and the Sunnah, the personal laws of the non-Muslims.’”

The motion was adopted.

**Mr. President :** The question is :

“That sub-paragraph (4) of paragraph 2, as amended, stand part of the Report.”

The motion was adopted.

Sub-paragraph (4) of paragraph 2 was added to the Report.

**Paragraph 2—Sub-paragraph (5)**

**Mr. Abul Kasem Khan** (East Bengal : Muslim) : Sir, I propose :

“That sub-paragraph (5) of paragraph 2 be omitted.”

Sir, the sub-paragraph (5) reads :

“Suitable steps should be taken to prevent activities subversive of the principles embodied in the Objectives Resolution.”

Therefore, I consider that it is unnecessary and redundant. After all a positive provision has been made in the chapter.

**Mr. President** : Motion moved :

“That sub-paragraph (5) of paragraph 2 be omitted.”

**Mr. Jnanendra Chandra Majumdar** : \*Sir, I support the amendment moved. I think that this is redundant. There is a clause in the Objectives Resolution which reads :

“Whereby the territories now included in, or in accession with, Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the Units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed.”

Sir, a time may come when other form of Government may be pressed for, as there may be some opinion that unitary form of government should be accepted. So if we adopt this clause, then there will be no scope for changing it to any other system of government. Moreover, the word ‘subversive’ is vague. How can a principle be based on subversive activities passes my comprehension.

**Mr. President** : The question is .

“That sub-paragraph (5) of paragraph 2 be omitted.”

The motion was adopted.

**Paragraph 2—Sub-paragraph (6)**

**Mr. Bhupendra Kumar Datta** : Sir, I move :

“That in sub-paragraph (6) of paragraph 2, after the words ‘caste or creed’ occurring in the fourth line, the words ‘sex or colour’ be inserted.”

Sir, the purpose of the amendment is quite obvious and I hope it will be accepted.

**Mr. President** : Motion moved :

“That in sub-paragraph (6) of paragraph 2, after the words ‘caste or creed’ occurring in the fourth line, the words ‘sex or colour’ be inserted.”

**The Honourable Mr. Abdul Hamid** : Sir, I do not think the amendment is at all necessary. When we say ‘caste or creed,’ we do not mention the sex or the sects of those castes. They are included there. I think the amendment is absolutely unnecessary.

**Mr. Ghyasuddin Pathan** (East Bengal : Muslim) : There is no colour in Pakistan.

**Dr. Mahmud Husain** : We are all of the same colour though there may be different shades.

**Mr. President** : The question is :

“That in sub-paragraph (6) of paragraph 2, after the words ‘caste or creed’ occurring in the fourth line, the words ‘sex or colour’ be inserted.”

The motion was negatived.

\*Speech not corrected by the Honourable Member.

**Mr. President :** The question is :

“That sub-paragraph (6) of paragraph 2 stands part of the Report.”

The motion was adopted.

Sub-paragraph (6) of paragraph 2 was added to the Report.

### Paragraph 2—Sub-paragraph (7)

**Mian Muhammad Iftikharuddin** (Punjab : Muslim) : \*Sir, I move :

“That in clause (b) of sub-paragraph (7) of paragraph 2, for the semi-colon and the word ‘ ; and ’ occurring in the third line, the following be substituted :—

‘by bringing under national control all means of production of wealth and distribution ; and’.”

It goes on further. So I was saying that we have been proclaiming that in Pakistan there will be a democracy which will be a real one as compared to sham democracies in other parts of the world, particularly the western world, and the reason given was that these democracies give on paper the right to exercise vote, but actually in those countries people cannot live freely ; they cannot in actual life enjoy democratic facilities, the reason being that although they can vote freely, they are so much bound down to their conditions ; they are so much controlled by those from whom they get their livelihood that they are not really free agents. I thought that was the meaning that we had in mind when we talked of a different type of democracy, of a real democracy in Pakistan ; in order to make it possible for the people to exercise those rights in a real way it would be necessary that we liberate them from the control of the capitalist, from the control of private individual for their livelihood and for themselves. I am fully aware that it may not be possible at this stage immediately in Pakistan to nationalize control of means of production and distribution. I do not propose that it be done immediately. I know it cannot be done. I know that if immediately such a declaration is made that at this stage the control of all means of production and distribution with the present machinery of Government and with the present political consciousness or lack of it of the people, is taken over, the Government will make many mistakes. People may suffer instead of benefit from that declaration in the present circumstances, if it is done today in 1953. But this constitution we are making for a long period as we could visualize. In that if that improvement is not put before the people, I think we would be just betraying ourselves and betraying them when we say that we are going to give them real democracy. It may be said that means of production and distribution should not be in the hands of the people. Even religious arguments may be put forward. I would not, Sir, bow down before the greatest *Alim*, if he were a member of this House, if he comes forward and tells us that Islam preaches that individuals should retain their rights over property and means of production even when it is detrimental to the general good of the *millat*. I will not give in. I cannot believe it. I think there may be lines which may be misinterpreted in the Quran, Sunnah and traditions. The lines may be misinterpreted to show that this thing is right ; that we are not to take over control of means of production from private individuals. But, Sir, there is one basic point : smaller considerations must give in and bigger considerations must have precedence. The most important consideration in a State is the general good of the community. No other consideration should be brought forward. To me it is very clear that unless the people at some future

\*Speech not corrected by the Honourable Members.

date—and I hope it will fairly early control the means of production and distribution of this State (the authority of which we claim has descended to us from God) I am sure there will be no real democracy in this country. For this purpose it is necessary that we should put it down in our constitution. It surprises me that we pay attention to minor details, important they are. But they are minor as compared to basic considerations. We have mentioned so many things : gambling, prohibition of drinking and so on. We have mentioned them specifically because we know they are quite important. But, Sir, the question of distribution of wealth, the question of controlling God-given means of production and distribution of produce is the most important consideration to me in our political, social and economic structure. And that has not been mentioned. As I said earlier, we are paying lip service to the slogans and we are avoiding to act in the spirit of Islam. I am sure nobody can get up and say that Islam does not teach, so far as is humanly possible, equality—economic, social and political. It may be argued that Islam also gives great importance to the individual and respects the individuality. That is perfectly right.....

**Mr. President :** You have got only one minute more !

**Mian Muhammad Iftikharuddin :** \*All right, Sir.

That is perfectly right but that individuality everyday has to give in and the individual's right everyday has to be sacrificed for the good of the general public. This principle operates even under the law in force, however badly, on the roads and streets of Karachi. Therefore, Sir, that is no argument. If the common good requires that the rights of the individuals be taken over, that should be done. Therefore, I hope if they want to follow the spirit which they profess this small amendment will be accepted.

**Mr. President :** Motion moved :

"That in clause (b) of sub-paragraph (7) of paragraph 2, for the semicolon and the word ' ; and ' occurring in the third line, the following be substituted :  
' by bringing under national control all means of production of wealth and distribution ; '"

**The Honourable Mr. Abdul Hamid :** \*Sir, if for no other reason, I would have strongly opposed Government becoming mass-producer. When Government steps into production, the cost of production always goes up. In the matter of distribution also it is noticed that they cannot do it more economically than the private people. Apart from that, what is Islamic socialism ? Does it seek to destroy private ownership ? The answer is : No. It does not try to do that. It only tries to ensure proper distribution by other means : by the law of inheritance ; by the provision of *zakat*. There are other methods by which the state ensures that money is not concentrated in the hands of a few. We are going to base our economy on the principles of Islam and Islamic socialism. Therefore we cannot make Government the biggest producer and distributor in the land to the detriment of everybody else. That is not the thing Islam enjoins. We should like more eagerly to follow Islamic socialism rather than this sort of regimented life as envisaged by making Government responsible not only for the life and property of the people but also harnessed with the task of production and distribution.

*Khuda ko malik banao baba ;*

*Kisi bande ko rizq ka malik na banao.*

With these few words, I strongly oppose the amendment.

\*Speech not corrected by the Honourable Member.

**Mr. Nur Ahmed** (East Bengal : Muslim) : Sir, I strongly oppose this amendment. I do not know if the leader of the Azad Party wants to turn Pakistan from an Islamic State into a Communist State. He has found a very ingenuous way of doing things. If this amendment is accepted Pakistan, whose ideology is Islamic, will be turned into a communistic State. The clause runs as follows :

“.....to prevent the concentration of wealth and means of production in the hands of a few to the detriment of the common man ; and”.

Sir, this sub-clause lays down the principle of Islamic law. Islam does not allow accumulation of wealth in one hand, or in a particular class. The founder of Pakistan and the Quaid-i-Millat have more than once proclaimed that in Pakistan there will be no capitalist class. To ensure this the necessary provision has been made. Then, why this amendment is there ? As stated by me nationalization of wealth, capital and industry is not the intention of Islam. That is not the principle of Islam. So, I strongly oppose this amendment. If it is adopted the whole conception and ideology of Pakistan will be turned topsy-turvy and it will go against the fundamental ideology of Pakistan and it shall make a communist State like Russia. So I very strongly oppose this amendment.

**The Honourable Mr. A. K. Brohi** : Sir, the object of the amendment is to limit the purpose which is mentioned in clause (b) of sub-paragraph (7) of main para. 2. In other words if the object is to prevent the concentration of wealth and the means of production in the hands of a few to the detriment of the common man then Mian Sahib would have this achieved only through one way, namely by bringing under national control all means of production, wealth and distribution. As lawyers would term it this amendment is by way of limitation. It excludes other methods of achieving the same end. If the object is that the concentration of wealth should not take place in the hands of a few people then let it be achieved by all possible means, proposed means included. When you are laying down a statement of a policy in the constitution, it is no use restricting its realization to a particular methodology and technique : to do that would be injustice to the constitution itself. As remarked by me earlier they are words of limitation. Of course we all know that Mian Saheb has this ideology near his heart. He may be of the opinion that only one way is available whereby this particular objective can be realized ; others may not agree with him. In fact there are other people, sane people, who hold contrary opinion. Consequently to raise a question of the mere philosophy of economics and declare it as necessary means for the achievement of the objective contained in this para as to do injury to the spirit of the whole of the constitution. That by itself is I think a conclusive answer to the point he has raised and the contention, as against his view point, shortly stated is that you should not provide in the constitution anything which is in the nature of a limitation words that restrict the achievement of certain goal only by one particular way. You may be wedded to a given doctrine today. Today it may be that those who are attached to Karl Marx and his principles of socialistic economy may adjudge that the only royal road to equality of wealth lies in the control of national economy by the State and by regimentation and complete control by the State of all means of production and distribution of wealth. That may be the existing philosophy today. Therefore to some people there is nothing inexorable about it. Tomorrow it may change. Consequently to lay down by way of a fetter in the constitution that only through a given method this can be achieved is to do injury to the spirit of the constitution. I would, therefore, appeal to the

reason in my honourable friend and I have not the least doubt that rational as he is he will see the point and withdraw the amendment. Otherwise we will oppose it.

**Mr. President :** The question is :

"That in clause (b) of sub-paragraph (7) of paragraph 2, for the semi-colon and the word " ; and " occurring in the third line, the following be substituted :—

'by bringing under national control all means of production of wealth and distribution ; and'."

The motion was negatived.

**Mr. President :** The question is :

"That sub-paragraph (7) of paragraph 2 stand part of the Report."

The motion was adopted.

Sub-paragraph (7) of paragraph 2 was added to the Report.

### Paragraph 2—Sub-paragraph (8)

**Shri Dharendra Nath Datta :** Sir, I move :

"That for sub-paragraph (8) of paragraph 2, the following be substituted :

'The State should make every effort to remove illiteracy from the country by the introduction of free and compulsory education for all children until they complete the age of fourteen years within a period of ten years from the commencement of this Constitution.'"

**Mr. President !** Sir, paragraph 8 as it stands here reads like this :

"The State should make every effort to remove illiteracy from the country within the minimum possible period."

Now, this occurs in the Directive Principles of the State, that is to say, that it should be duty of the State to remove illiteracy in Pakistan. As you are aware, Sir, the number of literate people in Pakistan is not more than 12 per hundred and literate person means one who may be able to read and sign his own name. Then he is considered to be literate. Sir, it should be the paramount duty and it should be top priority that illiteracy should be removed. Not only we should consider of physical food for the people but we should provide the mental food to the people. That should be the primary duty of every state. It is a matter of regret and shame that since Pakistan has come into being the first casualty is education. Illiteracy has increased. We have not made any attempt during the last 6 years to remove illiteracy. Literacy has decreased. In the rural area of Eastern Bengal today primary schools that used to exist before partition have ceased to function. That is the position. My object is that the State should remove illiteracy as it is its duty. Now here the expression used is that it shall be the duty of the state to remove illiteracy within the minimum possible period. But I feel the limit of a certain period should be there, therefore I have inserted therein a period of 10 years. Sir minimum possible period is very vague. It conveys no meaning whatsoever. Therefore I suggest that the specific period may be inserted and the period should be 10 years. Then, Sir, how are you going to remove illiteracy and I have stated in my amendment that by the introduction of free and compulsory education for all children until they complete the age of 14 years. If you look at the constitutions of various countries of the world you will find that there are many countries where free and compulsory education does not only extend to the primary stage but it extends to the secondary stage. Sometimes it extends to the university stage too. Now if you look to the recent constitutions specially you will find that it has been stated that the States of the world are trying to remove illiteracy by the introduction of at

[Shri Dharendra Nath Datta]

least free and compulsory education. So I feel that free primary compulsory education should be introduced immediately and by this means illiteracy should be removed. Compulsory free education must be introduced and it should be extended to the age of 14 years. Now, Sir, I have looked into the recent constitutions of West Germany and of other countries and there it has been stated that really free compulsory primary education will be introduced. If you look, Sir, to the directive principles of the constitution of our neighbouring country, India, it is stated that the State shall endeavour to provide within a period of 10 years from the commencement of this Constitution free and compulsory education for all the children until they complete the age of 14 years. It is really regrettable that no importance has been given to the removal of illiteracy in this country and therefore I hope Government will accept this amendment of mine.

**Mr. President :** Motion moved :

“That for sub-paragraph (8) of paragraph 2, the following be substituted :—

‘The State should make every effort to remove illiteracy from the country by the introduction of free and compulsory education for all children until they complete the age of fourteen years within a period of ten years from the commencement of the Constitution.’”

**Mr. Nur Ahmed :** Sir, I beg to move :

“That to sub-paragraph (8) of paragraph 2, the following be added at the end :—

‘and to provide for free and compulsory primary education within a period of fifteen years from the coming into force of the Constitution.’”

Sir, this is a very important amendment. Sub-clause (8) runs as follows :—

“The State should make every effort to remove illiteracy from the country within the minimum possible period.”

Sir, to this, it is added that apart from the removal of illiteracy, the Government will undertake to introduce free and compulsory primary education within a period of 15 years, which is the birth-right of every citizen of a State and which should be the primary duty of the Government of any country. This amendment would enjoin upon the Government the duty of introducing free and compulsory primary education for all. Sir, there can be no two opinions about the necessity and utility of this minimum education for the citizens of Pakistan. Sir, we are introducing adult franchise in Pakistan and it would be very difficult for the citizens of Pakistan to utilise the right of adult franchise without having the barest minimum education. This primary education is the very basis, the very foundation of the State on which a nation's structure of progress is built. No progress can be made unless Government can do it within a certain period. No progress, whether it be agricultural development, or industrial development, or economical development, can take place unless you introduce free and compulsory education. So, I strongly urge that my amendment should be accepted by the House.

**Mr. President :** Motion moved :

“That to sub-paragraph (8) of paragraph 2, the following be added at the end :—

‘and to provide for free and compulsory primary education within a period of fifteen years from the coming into force of the Constitution.’”

(after a pause.)

**Mr. President :** I will now put the amendment of Mr. Dharendra Nath Dutta to vote. The question is :

“That for sub-paragraph (8) of paragraph 2, the following be substituted :—

‘The State should make every effort to remove illiteracy from the country by the introduction of free and compulsory education for all children until they complete the age of fourteen years within a period of ten years from the commencement of this Constitution.’”

The motion was negatived.

**Mr. President :** The question is :

“That to sub-paragraph (8) of paragraph 2, the following be added at the end :—

‘and to provide for free and compulsory primary education within a period of fifteen years from the coming into force of the Constitution.’”

The motion was adopted.

### Paragraph 2—Sub-paragraph (9)

**Mr. President :** Then, we take the next amendment. Yes, Shaikh Sadiq Hasan.

**Shaikh Sadiq Hasan** (Punjab : Muslim) : Sir, I move :

“That in sub-paragraph (9) of paragraph 2, for the word ‘service’ occurring at the end, the words ‘in defence and other services’ be substituted.”

Sir, first of all, I take the question of defence. I do not know what was the policy of the British Government and what were the reasons that in the matter of recruitment to Defence Services, they did not recruit army from certain provinces and favoured certain provinces at the expense of others. Amongst those who were not taken in the Army, were Bengalis especially and generally Baluchis and Sindhis. East Pakistan is a very big province having more population than West Pakistan as a whole. So, Sir, I will take the case of East Pakistan first. During Muslim rule in India Bengali Muslims declared their independence under their own Kings and for about three countries maintained their independence. During the days of slave Kings, Bughra Khan was made Governor of Bengal and his sons remained independent Kings over there. Sir, I would say it was only after Babar conquered Delhi—still the Bengal Kings remained independent till the days of Akbar who conquered Bengal. Again, Sher Shah declared independence and with the armies of Bengal and Bihar conquered Delhi. This shows, there is no reason why especially Bengalis should not be trained in arms. Even, I would say when the English people boast that with two thousand men, they defeated the army of Siraj-ud-Daulah which consisted of 70 thousand men, the reason was not the courage of the English people, but because the army of Siraj-ud-Daulah was not well-armed and the treachery of Mir Jaffer. This happened at the Battle of Plassey. Similarly the army under Lord Kitchner extirpated a big army of 26 thousand Darwishes at Omdurman because they were armed with bows and arrows whereas the army under Kitchner was armed with the latest type of machine guns. This boast of the English people that they were defeating armies with the courage of their own people wherever they fought, is totally wrong because they were armed with the modern weapons and the armies that were defeated by them were armed with antique weapons.

Therefore, Sir, I say if you are to make Pakistan strong, then all the Units must have the same opportunities in military training especially, those who are backward in this respect. You should give training to Bengalis in their own province and it should be of the same type as is imparted in Kakul Academy. Therefore I suggest that a Military

[Shaikh Sadiq Hasan]

Academy on the pattern of Kakul be established there. In the same way they should also be recruited in the Air Force. By saying this I do not mean that they should be taken only in the Air Force but what I mean to say is that training in this respect should also be given to them in East Pakistan. Do not allow them to miss it. If you do not give them military education and training there, how will they get an opportunity to learn all these things? Do not put forward the plea that they do not want to learn all these things. This sort of argument was advanced by the Britishers and it was their policy to keep them in ignorance and backwardness. I would ask the Government not to commit the same mistakes which were committed by the previous Government. I do not want the new Government to repeat those mistakes now. In the Punjab we have got Civil Defence....

**Mr. President :** Shaikh Sadiq Hasan, we are dealing with the Constitution and not with what the previous Government did.

**Shaikh Sadiq Hasan :** I will just say a few points about to develop my argument.

**Mr. President :** It is not necessary to point out the failings of the Government. You did that during the general discussion to your heart's content. Now let us confine ourselves only to the motion under consideration.

**An Honourable Member :** Say something about corruption.

**Shaikh Sadiq Hasan :** Then I will tell you one thing. Do not give them dummy guns. In Punjab dummy guns were supplied to the Civil Defence Force. When I plead for giving them training, I do not mean that you should only give them theoretical training. I want them to have practical training.

**Mr. President :** You have already made yourself quite clear.

**Shaikh Sadiq Hasan :** I am making myself more clear.

What I was saying was that dummy guns were supplied to the Civil Defence Force of Punjab and these dummy guns will not make them anything but gun fodder. I do not want that such a sort of training should be given to our young people in East Pakistan. That is why I said earlier that practical training should be given to them. Only theoretical training will not be of any use. Practical training in gun fire and the shootings at the targets will really be useful. So much about Defence.

Now I come to the Services. I will take the case of Baluchistan and Tribal areas. Who is running the tribal areas and who is running Baluchistan? There is no legislature over there. The Central Government has not done so far anything for their education. The Members of the Basic Principles Committee with all their learning want to deny legislature to Baluchistan and Tribal areas and if they are not given any legislature, how is it possible for them to get better education and Services? You see that in Lasbela State, there are only three or four graduates. Therefore, it is the duty of the Central Government to open schools over there and educate the masses of the backward areas. If you do not give them education and legislature, you cannot take them in higher services.

**Mr. President :** One minute more.

**The Honourable Khan Sardar Bahadur Khan (N.-W.F.P. : Muslim) :** Sir, he is saying some thing important. Give him some more time. I am prepared to forgo my right of speech if you give him another 15 minutes.

**Shaikh Sadiq Hasan :** I would ask the Central Government to open schools and colleges over there because it is only in that way that they will be able to get an opportunity to join the Services as otherwise when there is no education in these backward units how can you appoint people into C.S.P. or Provincial Services or in the higher ranks of Military Services.

**Mr. President :** The question is :

"That in sub-paragraph (9) of paragraph 2, for the word 'service' occurring at the end, the words 'in defence and other services' be substituted."

The motion was adopted.

### Paragraph 2—Sub-paragraph (10)

**Mian Muhammad Iftikharuddin :** Mr. President ! Sir, I move my three amendments together. I move :

"That in sub-paragraph (10) of paragraph 2, the word 'Muslims' occurring in the second line, the word 'people' be substituted."

"That in sub-paragraph (10) of paragraph 2, for the word 'un-Islamic' occurring in the third line, the word 'unpatriotic' be substituted.

and

"That in sub-paragraph (10) of paragraph 2, for the word 'Millat' occurring in the fifth line, the word 'Nation' be substituted."

\*Sir, my reason for moving these amendments are as you know that whereas paragraph 10 proposes to remove all parochial, tribal, racial and other distinctions amongst the people of Pakistan so that the mission for the implementation of which Pakistan came into being is completed. Now, Sir, it is very clear to me that when we talk of an Islamic State, there are certain things which cannot be tolerated and which may do harm in a way to the minorities have been kept in our Constitution, such as separate electorates and those things that can do good to the minorities, have been excluded. I think it should be made clear to the World, no matter what people may want, or a section of the people of certain community may want, that in Pakistan no caste and no racial distinction will be tolerated and in saying so we should not confine this to the Muslims alone ; we should see to it that even Hindus or other communities living in Pakistan do not observe such distinctions. I am not encroaching in any way upon the religious rights of Hindus but there are certain human rights which have to be respected and human rights must take precedence over all other rights. Therefore, I think it will be betraying the cause of the minorities ; it will be betraying the cause of the down-trodden : it will be betraying the cause of those who are lowest today in the social strata of Pakistan. If we confine this clause only to the Muslims, we should see to it that the Scheduled castes and other down-trodden people get equality and enjoy same rights in Pakistan and therefore I think that the word 'Islamic' here really is a disrespect to the Constitution of Pakistan and in order to make people feel that it is for all, we should remove that word "Muslim" in order to actually make this clause operative on all people. I hope that people here who represent, for instance, the Congress Party or the Caste Hindus will come forward and support me in this amendment, so that the misunderstanding that exists today, that they want certain section of their community to be kept down-trodden, that certain distinctions be observed amongst them—that charge be removed and Pakistan really becomes a State where no racial or other distinctions be observed. Of course it

\*Speech not corrected by the Honourable Member.

[Mian Muhammad Iftikharuddin].

does not lie in the mouth of these spokesmen of the people who rule us to come forward and say that they are not removing distinctions. They have done everything possible to maintain communal, racial distinctions and not only maintain but develop these distinctions, and last of all provincial distinctions. Those people have come forward and put this clause. It shows how lightly they take these items in this Constitution. Only a little while ago the Honourable gentleman who has piloted this Bill talked of equal and fair distribution of wealth. What I say is that they do not mean these things....

**Mr. President :** Mian Sahib, you must deal with the amendment.

**Mian Muhammad Iftikharuddin :** I am glad, Sir, that you take so much interest in my speech that even the slightest deviation....

**Mr. President :** Only at one or two places of your deviations.

**Mian Muhammad Iftikharuddin :** Sir, I take it as a compliment, because the speaker who has just sat down was deviating.....

**Mr. President :** I have allowed you so many times to deviate ; you should not forget that.

**Mian Muhammad Iftikharuddin :** I do not forget it.

I was saying that they have done every thing possible not only to maintain but to develop these distinctions. But let us at least put in writing. Now I must make it clear that what I mean by racial distinctions or other distinctions, I mean this. I do not in any way want to encroach upon the rights of various people living in this country : the right of Bengalis to develop Bengali, the right of Sindhis to develop Sindh, the right of Punjabis to develop their own language and so on. I do not want to encroach upon them, their natural rights. What we want to fight against is what this Government is not doing. The Government that rules over us is encouraging provincialism as distinct from nationalism. That is the distinction we must bear in mind. This amendment really proposes to remove those distinctions. No matter what the words are, let us try to improve as much as we can. In actual practice the Government who control our destiny—and I am sure so long as they are in power—contribute to develop those distinctions. My amendment is quite in accordance with the Islamic constitution. They treat the people under their own rule in their own State like *pariahs*. So I hope this amendment will be accepted by the Congress Party.

**Mr. President :** Motions moved :

“That in sub-paragraph (10) of paragraph 2, for the word ‘Muslims’ occurring in the second line, the word ‘people’ be substituted ;

“That in sub-paragraph (10) of paragraph 2, for the word ‘un-Islamic’ occurring in the third line, the word ‘unpatriotic’ be substituted ;

and

“That in sub-paragraph (10) of paragraph 2, for the word ‘Millat’ occurring in the fifth line, the word ‘Nation’ be substituted.”

**Shri Dharendra Nath Datta :** Sir, I rise to give my whole-hearted support to my friend Mian Iftikharuddin. If you look to the language of this sub-paragraph (10), it says :

“The State should endeavour to discourage amongst the Muslims of Pakistan parochial, tribal, racial and other similar un-Islamic feelings.”

I submit that if the parochial feelings of the Muslims endanger the integrity of Pakistan, I feel, as citizen of Pakistan, that parochial feelings of Hindus will also endanger the integrity of Pakistan. Not only parochial feelings of Muslims should be done away with, but the parochial feelings of all people living in Pakistan should be done away with, if they are treated as citizens of Pakistan. I whole-heartedly support the amendment of Mian Iftikharuddin because it does away with all these parochial, tribal and racial feelings and other unpatriotic feelings and it will add to the integrity of Pakistan. As a Hindu, as a person belonging to the minority community in Pakistan, I declare that these feelings should not be promoted amongst us and you should endeavour to do away with these feelings. If you read the paragraph further, it says, ".....and inculcate in them the spirit to keep foremost in their minds the fundamental unity and solidarity of the Millat and the requirements of the ideology and the mission for the implementation of which Pakistan came into being. Pakistan came into being so that it would really be one of the biggest and best State in the world." The prosperity of each one of us lies in the prosperity of Pakistan. I declare it and whole-heartedly declare it that the prosperity of Hindus living in Pakistan, the prosperity of the minorities living in Pakistan, lies in the prosperity of Pakistan and we demand that this amendment be accepted. I do not want to repeat what has been argued. The Members I think, should make it a point to accept the amendment.

With these few words I support the amendment that has been moved by Mian Iftikharuddin.

**Shri Sris Chandra Chattopadhyaya :** Sir, I would like to speak a few words about the amendment of Mian Iftikharuddin which reads :

"That in sub-paragraph (10) of paragraph 2, for the word 'Millat' occurring in the fifth line, the word 'Nation' be substituted."

I cannot agree to this amendment. There is so far no definition of "Nation". I am fighting upto now to give up this idea of two nations. If you stick to the idea of two-nations—not one nation of Pakistan—I cannot agree to use the word "Nation" because as I have said "Nation" has not been defined. If you say Pakistanis one nation, then I can agree to that. But there is no such thing as Pakistani nation so long as there is this two-nation theory. There cannot be one Pakistani nation for Muslim Pakistanis. If there are two nations, how can others say they are Pakistanis. You must understand in Pakistan there are living people of different religions. Sir, I understand "nation" in the sense of territory. You cannot divide people according to religion, but you can divide them in the sense of territory. My submission always has been that Pakistanis belong to one nation, not to as many as six nations, Muslim Nation, Hindu Nation, Scheduled Nation, Christian Nation, Buddhist Nation, Parsi Nation. So, Sir let us first decide whether we are one nation, otherwise how can we accept it. Sir, I oppose this.

From the very beginning, Sir, I have been saying that we are one nation. I said that in the select committee also. I say do not divide Pakistan into several nations according to their religion because that way lies the danger. Nation should be on the basis of territory. Otherwise remember Sudetan Germany. There were two or three nations in Czechoslovakia. They did not become Czechs and Czechoslovakia was destroyed by Hitler. Therefore, I say do not speak of two nations. At the time of division, you spoke of two nations. I was always against that. I said that in India there was one nation—the Indian. However, there are two independent countries now—Pakistan and Bharat. I do

[Shri Sris Chandra Chattopadhyaya]

not call it India, because if you call it India, it is political India and not geographical India. If you call geographical India, Pakistan and Bharat are India.

**An Honourable Member :** No, they are two different independent countries.

**Shri Sris Chandra Chattopadhyaya :** Sir, we also fought for independence of India. We Pakistanis, who are in Pakistan, also fought for independence. No one can claim that only Bharti portion fought for independence. We Pakistanis are also entitled to have some credit. I say that Pakistanis in East Bengal, the Hindus and others also in East Bengal, fought for independence. I can say that East Bengal people fought for independence more than any other province of India. How many boys went to gallows from East Bengal : look to the statistics. We can say that we fought for the independence of India. Sir, according to my conception, when India was divided into Pakistan and Bharat, the two nation theory was given up.

**Mr. President :** I am sorry to interfere. That question came up for discussion and we have dealt with it. Your view is that unless 'nation' is defined, you cannot accept the amendment. That is quite clear. Let us now know what are your views about the other clauses.

**Shri Sris Chandra Chattopadhyaya :** So far as other clauses are concerned, they are for the Muslims. They are not for us at this stage. I shall be very glad if the Muslims be united in their own way, as you say in Islamic State. I say let them live according to their own law. Unless that question is decided, I do not support any of these amendments.

**Maulana Mohammad Akram Khan (East Bengal : Muslim) :** \*Mr. President ! Sir, I was surprised to hear the words of Mian Iftikharuddin during his speech to-day in this House. I hold the view and I have always been used to hearing the same view expressed by Mian Saheb that Pakistan should be absolutely independent and Pakistanis should not allow themselves to be swayed by foreign influences.

**Shri Sris Chandra Chattopadhyaya :** Sir, we want your permission for him to speak in Bengali.

**Maulana Mohammad Akram Khan :** As a matter of fact, I want Mian Saheb to understand me. I do not want to bother you in this matter.

**Sardar Amir Azam Khan (Punjab : Muslim) :** Let him speak in Bengali.

**Maulana Mohammad Akram Khan :** But he would not be able to understand in Bengali.

**Shri Sris Chandra Chattopadhyaya :** Then speak in English.

**Maulana Mohammad Akram Khan :** If I speak in English, nobody would be able to understand me.

\*Sir, Mian Saheb wants to get everything done in no time as, according to him, is being done particularly in Russia and generally in America or even in Britain. We see British influence predominant in everything about us. Every one here is seen strutting about in ties, coats and pants. It does catch the eye anyway. I was surprised to see that Mian Saheb wants to substitute the Arabic word 'Millat' by the word 'Nation'. I may submit that the word 'Millat' is not less expressive than the word 'Nation'.

\*English translation of the Urdu speech.

**Mian Muhammad Iftikharuddin :** \*If 'Millat' means all the peoples inhabiting Pakistan, I withdraw my words. In that sense 'Millat' will do just as well.

**Maulana Mohammad Akram Khan :** \*I may, however, submit that I do not know what the word 'Nation' actually signifies and so I cannot speak with any certitude on the scope of its meaning. I may, however, add for your information that I have seen all the books in English written during the last two hundred and fifty years on this subject. I have also read the English version of Stalin's speech as to what constitutes a 'Nation'. From what I have read in these books, I can say that it is a vague word—a word, which every social philosopher interprets differently on different occasions to suit his convenience and need of the moment and carries no deeper significance.

You may know that we have three terms for expressing this meaning, namely, (1) Millat, (2) Ummat and (3) Qaum. You may ask me to explain their different shades of meaning which enable us to draw 'distinction' between the different terms, but in all fairness you cannot put this question to me because the 'onus of proof' lies on you. Since, it is you who have chosen to reject this term, you should state the reason for its rejection in preference to the word 'Nation'.

**Mian Muhammad Iftikharuddin :** \*I have already submitted to you.....

**Maulana Mohammad Akram Khan :** Look here! I have kept on listening to you with utmost patience throughout these six years. Cannot you now suffer me to speak even for a few minutes?

I now turn to my friend and co-citizen of Dacca, Mr. Chattopadhyaya, who has dropped a 'suggestion' which is hard to be swallowed in silence by any Muslim or for that matter any self-respecting individual. He says that in the true fashion of a hypocrite we kept on dangling the Two-Nation Theory before the people till just before the establishment of Pakistan only to hoodwink the world. I would emphasize that with us solidarity of the 'Millat' is an 'Article of Faith' which we cannot compromise either while living under the foreign yoke or in the hey-day of our Independence.

*Inna haza millat-o-kum millat-unwahidah.*

Verily, this brotherhood of yours is a single brotherhood.

The day will certainly dawn when we will achieve this ideal. It is not confined to Pakistan alone and we are determined not to rest till we have consolidated the comity of Islamic State into one single Millat.

It is only the beginning of love and you begin to cry.

You just wait and see what comes next.

With heart within and God overhead.

**Dr. Mahmud Husain :** The Leader of the Opposition has raised a fundamental issue: whether we are a nation. That is the question he put before the House and he would be prepared to accept or reject the term "Nation" in the context of the amendment of Mian Iftikharuddin only after having been satisfied on this question.

He said, as Maulana Akram Khan, has pointed out that although before the Partition, Muslims claimed that they were a separate nation, now they must forget all about it and now we must say that it was all a sort of slogan and that now that India and Pakistan have become separate

\*English translation of the Urdu speech.

[Dr. Mahmud Husain]

let us say that Hindus and Muslims are one, single nation. It is a very peculiar attitude on the part of the Leader of the Opposition. In fact if his point of view was accepted, then the very justification for the existence of Pakistan would disappear. Pakistan exists only on that basis—that Muslims are a separate nation—and on no other basis. If Hindus and Muslims were one single nation, there should be one single country; there should be one State for them and not two States. This issue has been settled by Partition and we cannot go on changing like this.....  
*(Interruptions)*..... I will explain the position as I see it. The question is: what is the position of our Hindu friends in Pakistan? I have no doubt in my mind that they are not a part of the Muslim nation but they have their rights as a minority. In a State it is possible to enjoy rights as a minority: as a minority they are members of the same nationality as we are. We possess common nationality which is a legal concept but we are not the same nation which is a sociological concept. We are *not* one nation and yet we are citizens of the same State. We have certain rights—all of us have rights—which we enjoy and duties which we have to perform, whether we are Muslims or Hindus; so the position is that in a legal sense there is no doubt that we are members of a single nationality; we are citizens of the same State and, as such, we have rights by virtue of that citizenship, by virtue of that nationality. To say that we are a single nation would be the very negation of the principle on which Pakistan was founded and ultimately there would be nothing left of it and I do not think anybody on this side can accept that position. It is a preposterous claim to say that before Partition we were two nations: now we have become one. That is not so.

As to the amendments moved by my friend, Mian Iftikharuddin, I would only say that I was surprised that these amendments came from him. I had been told that "patriotism" and "nation" and similar terms were bourgeois concepts; that they had been created by the capitalist classes in order to divide mankind, which is really divided into two nations—the employers and the employees, or the capitalists and the workers. Yet, when it comes to amending the Constitution, Mian Iftikharuddin comes forward and proposes that we should introduce the element of patriotism and nationhood into our Constitution. I do not know whether it means a transformation of Mian Saheb, a change in his general outlook. Whatever the position, if the whole sub-clause is read it will be clear that the amendments cannot possibly be accepted for the simple reason that the various parts of this sub-clause are to be read together and there are some which can only relate to the Muslims and, therefore, in this context to bring in things which are not connected with the Muslims will not be right. I would draw his attention to the following words in sub-paragraph (10) of paragraph 2:—

"The State.....should inculcate in them the spirit to keep foremost in their minds the fundamental unity and solidarity of the Millat and the requirements of the ideology" etc.

Now, how on earth by accepting the amendments of Mian Saheb shall we be able "to keep foremost in their minds the fundamental unity and solidarity of the Millat, and the requirements of the ideology and the mission for the implementation of which Pakistan came into being." It is no secret for Mian Saheb that Pakistan ideology was a Muslim ideology, that it was the Muslims who demanded Pakistan and it was they who through their efforts were able to achieve their goal. The whole sub-clause is to be read as one and you cannot bring in elements other than

Muslims into this sub-clause, because otherwise some of the words will be nonsensical; they will have no meaning in this context. It is, in my view, essential that this whole Clause should stand as it is.

**Mr. Bhabesh Chandra Nandy :** Sir, I had no mind to speak, but because some new factors have been brought into discussion, I would like to say something. The definition that Dr. Mahmud Husain has brought would have convinced anyone not familiar with terminology of constitutional theories. The difference of meaning between "nationally" and "nationhood", I think, does not go far. Any way, the clause which has been proposed to be amended by my friend, Mian Iftikharuddin, speaks of something which involves admission of two-nation theory—by recognizing one section of people, *viz.*, the Muslims as the most-favoured elements in the entire State of Pakistan—and the State is directed by this directive clause to take the responsibility of consolidating and integrating them and imbuing them with a certain ideology, as if the other elements in the State may be left to rot, no matter how much degradation, how much difference of feeling, how much provincialism and parochialism may grow among them. Is it not the responsibility of the State in the present-day world of extreme struggle to mobilize the entire resources of the State if it wants to survive? If they only want to make a fetish of religious ideologies, the thing is different. If they want to come out prominent in the comity of nations in the world and if they want to make a progressive nation, I will say that the only course for such a new state as Pakistan is to try and to make a regimentation of every ounce of energy, feeling and sentiment of the entire population, without trying to drive a wedge in the totality of its people. But an attempt is made by this clause to discriminate amongst people and the State is asked to take the responsibility of a certain section only. The provincialism, the parochial outlook and narrowness that you consider bad for Muslims, are equally bad for Hindus, for Christians and others who are living within the boundaries of the State. The thing that is bad for one is bad for everybody. The State should, therefore, move to do away with this evil thing from everybody, so that the State may get more integrated and consolidated. Sir, I do not grudge if my Muslim friends who form 86 per cent. of the population of Pakistan enjoy facilities for raising their moral standard, their religious integrity and their standard of living. I rather welcome it, but here it goes beyond that. We should look to the total benefit of the State, and to matters which concern the well being of the entire State and so, we should take into consideration all the elements of the population and not try to divide them and to look to them with only sectional outlook. We want to do away with parochialism and narrowness of outlook, but this clause has been drafted with a parochial outlook. It does not take into consideration the entire people of the State. Sir I have nothing to add to what Mr. Chattopadhyaya has said. Sir, I advise my Muslim friends not to claim the monopoly of patriotic feeling and love of Pakistan. Other people are also more or less patriotic. Let Muslim friends decide if they really believe that Pakistan as a State can take rapid strides towards progress and prosperity by incorporating such discriminatory provisions in the Constitution which divide the people by placing one section of the people in an advantageous position over others? I must say it is a very narrow approach to the problem. It is an exhibition of extremely narrow outlook, a sectional outlook and I leave it to them to think how for it will be helpful. I have nothing more to add.

**Sardar Abdur Rab Khan Nishtar :** Sir, this important clause is based on the background. . . . .

**Mr. President :** I think you will take some time. Therefore, we will not be able to finish this clause by 1 p.m. So I think we may adjourn now. You may resume your speech when the House meets next.

The House stands adjourned till 6 p.m. today.

The Assembly then adjourned till Six of the Clock in the Evening.

The Constituent Assembly of Pakistan re-assembled in the Assembly Chamber, Karachi, at Six of the Clock, in the Evening, Mr. President (the Honourable Mr. Tamizuddin Khan) in the Chair.

CHAPTER II—DIRECTIVE PRINCIPLES OF STATE POLICY—*Contd.*

Paragraph 2—Sub-paragraph (10)—*contd.*

**Mr. President :** Sardar Abdur Rab Khan Nishtar.

**Sardar Abdur Rab Khan Nishtar** (Punjab : Muslim) : Sir, we were discussing clause (10) and the amendments which were moved by my honourable friend, Mian Iftikharuddin Saheb. In the discussion Mr. Chattopadhyaya introduced the question of what is meant by "nation", and what is the position of the non-Muslims. So far as this question is concerned, I have got an answer and I will discuss it at appropriate time but it will entail a long discussion and is not germane to the actual clause which is under consideration. It arose out of the word "nation" used by Mian Iftikharuddin in his amendment. This clause represents the ideology for which the struggle for Pakistan took place. The clause says :

"The State should endeavour to discourage amongst the Muslims of Pakistan parochial, tribal, racial and other similar un-Islamic feelings and inculcate in them the spirit to keep foremost in their minds the fundamental unity and solidarity of the Millat, and the requirements of the ideology and the mission for the implementation of which Pakistan came into being."

All those who have had any association with the struggle for Pakistan will, I hope, remember that during the struggle the Quaid-i-Azam declared on more than one occasion that so far as the demand for Pakistan is concerned, it is not only meant for having a country for the Muslims but that we wanted that the Muslims should live there in accordance with the Islamic ideology, that this State of Pakistan should serve the Islamic world ; and it should be a bulwark of the Islamic world. Mr. Chattopadhyaya states that the two-nation theory was advanced during the pre-partition days but after the attainment of Pakistan, the Quaid-i-Azam changed his mind with regard to it. I would respectfully submit this is absolutely wrong. So far as the concept of the Muslim nation is concerned, that concept was present before the mind of Quaid-i-Azam all along. It is an Islamic concept and there could not be any change of mind with regard to it. On more than one occasion, even after the establishment of Pakistan, the Quaid-i-Azam described Muslims as a nation. I have got here before me this small book which contains some of the speeches of Quaid-i-Azam which he delivered after the establishment of Pakistan. I went through it to find out whether on any occasion he described the Muslims as a nation or not after the establishment of Pakistan. I was sure there will be many such speeches but I would just quote two or three of them. For instance, in a speech which was broadcast from Radio Pakistan, Dacca, on the 20th March, 1948. He stated :

"Pakistan is an embodiment of the Muslim nation and so it must remain."

Then, again, in an address to a Tribal Jirgah, the Quaid-i-Azam said :

“ We Muslims believe in one God.”

This is on 17th of April, 1948. He said :

“ We Muslims believe in one God, one Book, the Holy Quran, one Prophet : so we must stand united as one nation.”

Then it is stated that in a broadcast talk to the people of Australia recorded on the 19th of February, 1948, he said :

“ Not only most of us are Muslims, but we have our own history, customs and traditions and those ways of thought, outlook and instinct which go to make up a sense of nationality.”

I have just given you three quotations from the speeches of Quaid-i-Azam, all of 1948, where Quaid-i-Azam described Muslims as a nation.

No doubt for certain political purposes, even before the establishment of Pakistan, in spite of the two-nation theory, the Muslims used to describe themselves as Indians and the Hindus used to declare themselves as Indians, but that did not change the fact or the belief of the Muslims that they are a separate nation. It was not considered as contradiction of their belief. Describing oneself as Indian by a Muslim was not considered as contradicting his basic belief that Muslims were a separate nation. I think it was some French Philosopher, I forget his name, who said that Muslims are a strange sort of people. According to their belief it will be correct to say that they are citizens of a country which is known as Islam. That is, Islam is a country in which Muslims live. My submission is that according to our belief Muslim, wherever they are in Pakistan, in India, in Egypt or elsewhere, in the East or in the West, belong to one Millat. This question has been the subject matter of great controversy for some years during pre-partition days, so much so that our national poet, Allama Iqbal had to give his opinion in some well known verses when a great Maulana Husain Ahmad Sahib said that nations are determined on the basis of geography. He said :

*Sarod bar sar-e mimbar keh millat az watan ast,  
Cheh bai-Khabar ze-maqam-e Mohammad-e Arab-eest ;  
Ba Mustafa be-rasan Khwaish ra keh deen hama aust,  
Agar ba-oo na raseedi tamam bu-lahab-eest.*

From the pulpit comes the Sermon that Millat is determined by geographical boundaries,

What colossal ignorance does it betary of all that Mohammad of Arabia stood for !

Take yourself to the Prophet to understand it, for he is Faith,  
If you fail to get there then all your beliefs are as naught.

These verses are remembered by all those who study Iqbal, because he has by them controverted the theory advanced by a prominent Alim, Husain Ahmad of Deoband. So far as Muslims are concerned, according to what we have learnt from the learned people and our great Philosopher—Allama Iqbal—, wherever we are, we belong to one Millat. The Quaid-i-Azam always used to say that Pakistan is not an end by itself, it is a means to an end. Time is very short and it is not possible for me to further elucidate the point. I would, however, submit, Sir, that the basis on which Pakistan has been established is Islamic ideology and these amendments to sub-paragraph (10) propose to change that ideology. If any honourable friend thinks that in the Constitution of Pakistan there is necessity of a clause to the effect, which relates to normal duty of a country, namely, that the State should try to discourage provincial and communal

[Sardar Abdur Rab Khan Nishtar]

feelings or to bring about amity and friendship between the various sections of the population, I shall never object to it. I shall support it. But this is normally expected of every country, as far as this clause is concerned, this is something extraordinary—not a normal duty which every State performs. Towards the end of this clause it is stated that Pakistan has a mission to perform ; it has got an ideal—and it is that ideal and mission which has to be kept in view by the State of Pakistan ; and for that purpose it is necessary, as laid down by Islam that there should be no tribal feelings, no racial feelings and no parochial feelings. The word “parochial” here means all sorts of local prejudices that there should be no parochial feelings even countrywise. There should be what may be described as ‘international brotherhood’ something contra-distinguished from national brotherhood. Just as in Communist States we hear a call of ‘Workers of the World Unite’ from here we want to raise a call ‘Muslims of the World Unite’. This is the ideal of this Muslim State. I cannot understand, Sir, that those who believe in the cry of the ‘workers of the world unite’ are justified in criticising another call of a similar nature, ‘Muslims of the World Unite’. This call is based on the ideals for which Pakistan was fought and achieved. This clause should, therefore, remain and the amendments suggested by Mian Iftikharuddin should not be accepted.

**Mr. President :** I am putting the amendment to vote now.

(after a pause.)

**Mr. President :** The question is :

“That in sub-paragraph (10) of paragraph 2, for the word ‘Muslims’ occurring in the second line, the word ‘people’ be substituted.”

The motion was negatived.

**Mr. President :** The question is :

“That in sub-paragraph (10) of paragraph 2, for the word ‘un-Islamic’ occurring in the third line, the word ‘unpatriotic’ be substituted.”

The motion was negatived.

**Mr. President :** The question is :

“That in sub-paragraph (10) of paragraph 2, for the word ‘millat’ occurring in the fifth line, the word ‘Nation’ be substituted.”

The motion was negatived.

**Sardar Amir Azam Khan (Punjab : Muslim) :** Sir, I beg to move :

“That in sub-paragraph (10) of paragraph 2, for the word ‘and’ occurring in the second line, the comma and words ‘sectarian and provincial prejudices as well as’ be substituted.”

Sir, sub-paragraph (10) to which I have moved the amendment provides that the State should endeavour to discourage amongst the Muslims of Pakistan parochial, tribal, racial and other similar un-Islamic feelings. Through this amendment, Sir, I have proposed that sectarian and provincial prejudices should also be included in this list. To me, Sir, this seems to be extremely necessary. As you are aware, Sir, the devastating demon of provincialism is gradually but successfully tightening up its grip over this new country. The menace is growing in proportion every day. I fear that if we fail to root out this slow working but deadly poison in our body politic, we shall never be able to emerge as a powerful, homogeneous, advanced and impressionable nation. You now, Sir, that only about five

or six years back, we willingly accepted the partition of two of our major provinces to create this new State of Pakistan, but today thanks to the provincialism, there are people in our country who are quite prepared to sacrifice the unity and solidarity of Pakistan for petty provincial considerations. It is therefore very necessary that we should cease to think in terms of our being Punjabi, Bengali, Sindhi, or Sarhadi or Baluchi. We are Muslim first and Muslim last; we are nothing but Muslims and the sooner we realise this fact the better would it be for the betterment of the people inhabiting this country. Sir, we must take all possible steps to completely destroy provincialism from our body politic.

With these few words, Sir, I commend the acceptance of my amendment.

**Mr. President :** Motion moved :

"That in sub-paragraph (10) of paragraph 2, for the word 'and' occurring in the second line, the comma and words 'sectarian and provincial prejudices as well as' be substituted".

Mian Iftikharuddin !

**Mian Muhammad Iftikharuddin** (Punjab : Muslim) : \*Mr. President, Sir, I rise to support the motion and I am surprised that it should have come from a Member of the Muslim League. Either he is betraying the cause of his Party or he is playing a hypocritical part. I hope it is the first and it is the beginning of a better change in the speaker who has just sat down. . . .

**Mr. President :** Is it not also surprising that you are supporting a motion moved by a Muslim Leaguer ?

**Mian Muhammad Iftikharuddin :** \*It is peculiar with me that I cannot help supporting anything good that may come from any quarter, even from a member of the Muslim League. That is my position.

I was saying that it is surprising that a Party which has been fighting amongst themselves over a few seats in this Assembly and in Government services, and which delayed the drafting of the Constitution not for days or months but for some years, should now pose as the opponent of provincialism.

**Mr. President :** This is irrelevant. I have hitherto allowed you that but please do not follow it up.

**Mian Muhammad Iftikharuddin :** I say that it is really surprising. . . .

**Mr. President :** What you have said is irrelevant but please do not continue further in this strain.

**Mian Muhammad Iftikharuddin :** As you will agree, Sir, it is really surprising that a member of the Muslim League. . . .

**Mr. President :** I am convinced that what you have said is not relevant. Please be relevant henceforward.

**Mian Muhammad Iftikharuddin :** \*I want to point out that there is a difference between provincialism and national requirements or nationalism. "Nationalism" has many meanings. Now it is perfectly justifiable for the people of Sind, for the people of the Punjab, for the people of the North-West Frontier Province and for the people of Baluchistan to ask for home rule, to ask for autonomy, to insist that subjects or departments, or affairs, which concern them should be governed by them. If the Punjab, Bengal or any other province may want to encroach upon the self-Government or the internal affairs of those provinces, which is a matter

\*Speech not corrected by the Honourable Member.

[Mian Muhammad Iftikharuddin]

for those provinces or for those units, those natural units, they will be doing a great injustice. It will be an imperialism against which each one of us should fight. That is a thing which is not provincial, which is natural, democratic, just and fair, which should be given and if it were given no Punjabi would grumble if he is ruling in his own house, is conducting his own affairs, would grudge why Sindhis are conducting their own affairs, why Baluchis are conducting their own affairs and why Bengalis are governing their country from their own centre in all matters that pertain to Bengal. Nobody would object to it. Whoever wants independence or democracy for himself and for his people, for his unit or for his nationality—or whatever word you want to use for, I will not quarrel with that ; you know what I mean—whoever wants independence and democracy for his own unit and his own people is really fighting for the independence and democracy of people everywhere. He who fights for independence anywhere is really fighting for independence and democracy everywhere ; that is the healthy feeling that we want to inculcate as much as possible. The more successfully the Baluchis fight for their independence, the more will they contribute to the independence and democracy of the people of Bengal ; the more valiantly and consistently the Bengalis fight for their own independence, the more will they be contributing to the independence and democracy of the people of the Punjab and Sind. So that is very clear and there is no clash in it ; in fact, they are independent in so far as they all want independence for themselves ; they all want fair treatment for themselves ; they all want to respect each other's rights. But provincialism is something vicious which we have inherited from our British masters, who used many things, amongst which was also provincialism, to divide and rule over us, and provincialism exhibits itself in this form that we should centralise all the subjects and in that case people will have lost control ; the centre of control will have shifted to a place which is far removed from them, in which there are other elements apart from their own representatives participating ; therefore, their control is lessened : Centre diminishing the democracy not only of the Punjab, Sind and Baluchistan, which are smaller provinces but even of Bengal. Even if Bengal had a majority—a clear majority—in both Houses in this Parliament, Bengal will have lost by bringing those subjects which were entirely their own affairs to the Centre because even a single vote in a House of 300 in a subject which concerns Bengal alone means one vote taken away from Bengalis, which we have no business to take away. So, provincialism is being brought in there because certain people or a certain class want to remain in power uninterruptedly. The Agreement that has been recently arrived at is really the acceptance of a permanent principle and fact of provincialism. It will increase provincialism and it is not an Agreement of the people of Bengal, of Punjab, of Sind, of Baluchistan and the North-West Frontier Province to govern themselves in their own homes ; it is an Agreement of the top leadership of Government jointly to . . .

**Mr. President :** Are you now referring to the Agreement, leaving this clause ?

**Mian Muhammad Iftikharuddin :** Yes Sir. I will finish in a minute. It is an Agreement to keep those people in office ; therefore, that is provincialism and that is what I fight against and that is why it surprises me that a member, however respected and however pleasant he may be in the lobby, in his manners, should come forward and have the audacity and, pardon me, or the stupidity (*Laughter*) to put forward a motion like this. I say "Down with Provincialism" and I say "Down with those who have

created and are perpetuating provincialism". In other words, I say "Down with the Muslim League and their formula and long live people's national, just, fair and democratic demands" and it is in that spirit that I support this motion.

**The Honourable Mr. A. K. Brohi** (Sind : Muslim) : Sir, after this rather unusual attempt on the part of Mian Iftikharuddin at being oratorical, I cannot prevent myself or restrain myself from saying a few words. I listened to him as I often listen to him with a great deal of attention. I do not know if he was clear in his own mind whether he was supporting the amendment or he was opposing the amendment, although I admit he did start with a declaration to the effect saying that he did support the amendment, a considerable part of his argument, in substance, was taken up in saying that he was implying the terms 'sectarian' and 'provincial prejudice' in the way in which he understood them. By his eclipical argument I was left in a complete state of uncertainty ; I was apprehensive that he might at any time turn a somersault. Before I go any further may I beg of him to please read paragraph 10 rather carefully. If he had read it, then all this oration could have been spared by him. The paragraph runs as follows :

"The State should endeavour to discourage amongst the Muslims of Pakistan parochial, tribal, racial and other similar un-Islamic feelings and inculcate in them the spirit to keep foremost...."

Now we proceed to add the words which are the words of the amendment—sectarian and provincial prejudices—after the word 'racial', as well as other similar un-Islamic feelings. The words 'other similar un-Islamic feelings' cast a glance back on the previous phraseology also. It is only the un-Islamic provincialism which is denounced. Of course, provincial culture is not to be discouraged ; provincial poetry is not to be discouraged ; provincial cultural formations are not to be discountenanced. There is provincialism, and provincialism and the paragraph makes it clear that it is a certain brand of provincialism which is sought to be denounced and that State is to make an attempt to discourage it. If Mian Sahib had read the whole thing in its context, he would not have shown so much want of logic which he did admittedly exhibit in saying things which he did not himself believe.

**Mian Muhammad Iftikharuddin** : I say what I believe in, Mr. Brohi.

**Shri Dharendra Nath Datta** (East Bengal : General) : Mr. President, Sir, I have been feeling after hearing the speech of my friend Mr. Amir Azam Khan in moving this motion, and also the speech delivered by my esteemed friend Sardar Abdur Rab Nishtar, that it seems to me that this sub-paragraph really deals with internationalism and has nothing to do with nationalism and in fitness of things my friend has said that he has nothing to do with it if this provincialism is to fight provincialism for the purpose of nationalism. But he has not used the expression that he is a Pakistani first and Pakistani last. Sir, this really pains me and in fitness of things the word 'provincialism' cannot occur in this amendment, because this sub-paragraph deals with internationalism as understood by my friend. Provincialism, Sir, is an enemy of nationalism. We believe in nationalism. For us it has got a meaning, and therefore he does not declare that he is a Pakistani. He does not like to develop the integrity of Pakistan. Therefore in view of the expression that has been made by my friend, Mr. Abdur Rab Nishtar, and in view of the speech that has been delivered by my friend, Mr. Amir Azam Khan, this amendment is out of order so far as this sub-paragraph is concerned. But I for myself do not believe in internationalism so much. I myself believe in Nationalism and as my esteemed friend Mr. Chattopadhyaya always demands that the

[Shri Dharendra Nath Datta]

people living in Pakistan belong to one nation and as such we shall continue demanding this. For us it has got a meaning. This amendment has not got a meaning for them. This amendment, therefore, is out of order and I declare that I want to develop the integrity of Pakistan and I declare that I am a Pakistani.

**Mr. President :** The question is :

"That in sub-paragraph (10) of paragraph 2, for the word 'and' occurring in the second line, the comma and words 'sectarian and Provincial prejudices as well as' be substituted."

The motion was adopted.

### Paragraph 2—Sub-paragraphs (11) and (12)

**The Honourable Mr. A. K. Brohi :** Sir, I beg to move :

"That in paragraph 2, for sub-paragraphs (11) and (12), the following be substituted and the subsequent sub-paragraphs be re-numbered accordingly:—

'(11) The State should endeavour to strengthen the bonds of unity amongst Muslim countries and to promote peace and good-will among the peoples of the world.'

Sir, if you do have a look at the present frame of the two paragraphs which are sought to be replaced by the paragraph which is in the nature of an amendment moved by me, you will notice only one fundamental change. Practically the first part—paragraph 11—is intact. It is only in relation to sub-paragraph (12) that you will notice one change and that change is that originally it was declared that "it should be the endeavour of the State to promote peace and security and good-will amongst the peoples of the world". The word 'security' in the context in which it appears postulates that it should be the endeavour of the State of Pakistan to see to it that the security of other peoples of the world is also ensured. As you see, this is a type of programme the implementation of which would require a great deal of financial resources and militaristic might. We are more eager at present to keeping our own house in order. We need not be worried about maintaining the security of other people. In view of that the mention of the word 'security' was rather over-ambitious and, therefore, in that, context this was dropped out but the rest of the matter, *i.e.*, sub-paragraph (12) has been tagged on to sub-paragraph (11). I do hope that the House will see the wisdom of this amendment and will accept it.

**Sardar Abdur Rab Khan Nishtar :** Sir, I will just read out a sentence from the speech of Quaid-i-Azam which he made on the 30th October, 1947 at Lahore. In that one sentence the gist of this clause which has now been moved by my Honourable friend, Mr. Brohi, is given.

"All I require of you now is that every one of us to whom this message reaches must vow to himself and be prepared to sacrifice his all, if necessary, in building up Pakistan as a bulwark of Islam and as one of the greatest nations, whose ideal is peace within and peace without."

These are the two points which are dealt with in the clause and, therefore, I support it.

**Mr. President :** The question is :

"That in paragraph 2 for sub-paragraphs (11) and (12), the following be substituted and the subsequent sub-paragraphs be re-numbered accordingly:—

'(11) The State should endeavour to strengthen the bonds of unity amongst Muslim countries and to promote peace and good-will among the peoples of the world.'

The motion was adopted.

**Mian Muhammad Iftikharuddin :** Sir, I beg to move :

"That to sub-paragraph (11) of paragraph 2, the following be added at the end...."

I do not mind even if it is added to the amended paragraph.

"That to sub-paragraph (11) of paragraph 2, the following be added at the end:—

'and lend all possible help to other subjugated people in the achievement of their national liberation.'

**Mr. President :** It should be :

"...possible help to them and to other...."

**Mian Muhammad Iftikharuddin :** Yes, Sir.

"...help to them and to other subjugated people...."

\*Sir, to me it is an exceedingly important point. The mover of the last motion said that we are in such a weak state that it is rather ridiculous to talk of security in connection with us ; we are not really in a position to give security to the people of other countries. I strongly differ with that. I think that if down-trodden people, if subjugated people, if backward people, if Asiatic people who have been suffering for the last few centuries from the Imperialism of the West, were to unite, they would not only give security to each other but they could perhaps make the world secure. The reason why the Imperialist Powers today look towards us as a prey for the imperialistic aims is that we are not united. And the reason why Pakistan finds itself isolated is that it has not under the present rulers aligned itself with the cause of the subjugated people. We pay lip service. Leave alone other subjugated people of Asia and the East and other parts of the world, we pay lip service to the brotherhood of Islamic world and to Islamic countries. Actually we have done everything possible—almost everything possible—during the last six years to fight against the interests and independence of these countries. Clarification of that is absolutely necessary, therefore. You would notice, Sir, that whilst people of Morocco who are Muslims have been fighting hard against French Imperialism, our Government has consistently remained aloof. This is despite the declaration of Quaid-i-Azam in 1946 in Delhi when the Viet Nam delegation came to India. Welcoming them he said: Ho Chi Minh and his followers were to him the representatives of the people of Indo-China and yet up to this day we have not recognised Ho Chi Minh and his brave fighters for freedom. If we had done that we would have struck a fatal blow to French Imperialism and by that we could have liberated our brethren in Morocco. In the same way if we had boldly come out in support of the people of Egypt, come out of the Commonwealth, opposed British Imperialist policies, we would have liberated—helped greatly in liberating—Egypt and would have given it security against other Imperialisms and other Powers that wanted to bring them under their rule. Had we at an earlier stage, or even today, aligned ourselves with the demand—actively aligned—of the Iranian people, and had we offered them economic help which was within our power—and they made suggestions to that effect—we would have greatly helped that struggling nation against British Imperialism and would have helped them to achieve their rights and legitimate demands. Sir, we have throughout not realised that how much we can strengthen ourselves by aligning ourselves with the other backward and subjugated people of the world. That is why we have had to sell our conscience to America. That is why we cannot see any

\*Speech not corrected by the Honourable Member.

[Mian Muhammad Iftikharuddin]

other way to live except at the mercy and charity of one of the Imperialisms of the world. This is what we have to fight against. How hypocritical the leaders who rule us today are about Islamic brotherhood is proved by just these three or four years of history. I was shouting at the top of my voice in this House for six years and requesting the Government to recognise Farooq—however degraded and despicable that man may be—as the King of Sudan, and to support the Egyptian demand for independence and to support the demand of the Sudanese for self-determination, and you would remember, Sir, we were the last—even non-Muslim countries had accepted the demand of Egypt—to agree that their demand was legitimate and right. We were amongst the last in the nations of the world to support them and that is because such pressure was brought to bear on Sir Mohammad Zafrulla and his colleagues. He comes occasionally to Pakistan and is never met by the people. He cannot face them. He is nervous even of the Press men.

**Mr. President :** Please be relevant to the subject matter.

**Mian Muhammad Iftikharuddin :** I am saying why my amendment is important. I could not be more pertinent and more to the point because I am telling you in practice how much we have suffered. How much we have endangered our own State? How much we have weakened ourselves? How these people have brought us to such a pass that we have had to sell our conscience? That is why we must align ourselves with the subjugated nations of the world. They are our best allies and best atom bombs and best friends. If we do that all could yet be well in our unhappy land.

**Mr. President :** Motion moved :

“That to sub-paragraph (11) of paragraph 2, the following be added at the end :—

‘and lend all possible help to them and to other subjugated people in the achievement of their liberation.’”

**Mr. Fazlur Rahman (East Bengal : Muslim) :** We may be in a position to support this but the point is this language does not fit in.

**Mian Muhammad Iftikharuddin :** Improvement of the language can be done by the Drafting Committee.

**Mr. President :** If the House agrees then I think the draft might be left to the Drafting Committee. That is likely to be formed.

**Shri Kamini Kumar Datta (East Bengal : General) :** \*Sir, I rise in support of this motion. I think this amendment is very consistent after the amendment of Honourable Mr. A. K. Brohi and also after the pronouncement of Sardar Abdur Rab Nishtar.

The phraseology of this amendment is : “To lend all possible help to them. . . .”—that is to Muslims and to other subjugated people in the achievement of their national liberation. I think this amendment gives a concrete shape to a Directive Principle. It is not simply a pious expression but lays down a principle for the future of Pakistan. It is a problem now, Sir, which is coming before the world : this colonial rule of the powerful nations must be ended. There are nations, and amongst them there are several Muslim nations, who are groaning under this colonial rule. Pakistan which claims to be the largest Muslim State in the whole world owes it as a prime duty to these countries to extend whatever help it can towards liberation of the Muslims of these countries at least. So, I think, Sir, instead of confining ourselves and exhausting ourselves

\*Speech not corrected by the Honourable Member.

simply with a pious expression of sympathy with the Muslims countries and with the Muslim peoples of the world there should be a directive that it will be the aim and one of the principles of this Pakistan's State, which claims to be biggest Muslim State in the whole world to extend its help for the liberation of these people, for saving those people from the state of slavery and from the bondage under which they are at present groaning.

**Mr. Abul Kasem Khan** (East Bengal : Muslim) : I had no intention to participate in the debate, but as my friend Mian Iftikharuddin has made certain statements which are likely to give an incorrect impression to the country and to the world outside I cannot help saying a few words....

**Mian Muhammad Iftikharuddin** : Is it necessary ?

**Mr. Abul Kasem Khan** : I think my honourable friends and everybody in Pakistan will agree with me that it has been the systematic policy of Pakistan Government to help all Muslim countries in their struggle for independence and I can convince Mian Sahib if he has not forgotten recent history that Pakistan had championed the cause of Indonesia, championed the cause of the liberation of Libya, has championed the cause of Morocco and of Arab States and even today our Foreign Minister is championing the cause of Arab States against Israel and against the foreign exploiters who are trying to suppress freedom movement in those countries. Sir, this is the attitude of Pakistan not only in the case of Muslim States but also in the case of other States. My honourable friend is supposed to be a great friend of the new Peoples' Republic of China and Pakistan has exerted its influence to see that China can get a seat in the United Nations. I hope my honourable friend would agree with me that the attitude of Pakistan has been very consistent and that it is the overall policy of Pakistan to fight colonialism and to help under-developed countries in attaining their independence—economic independence and political independence. So, Sir, it is altogether a wrong statement to say that Pakistan has done nothing since its inception to help countries which are fighting against colonialism or which are fighting against exploitation. Sir, with these words, I support the amendment moved by Mr. Brohi.

**Mian Muhammad Iftikharuddin** : But that has been passed. Then you oppose this amendment. Thank you very much.

**Mr. Abul Kasem Khan** : Yes. Sir, because the amendment already passed will serve the purpose.

**Shri Sris Chandra Chattopadhyaya** (East Bengal : General) : This amendment as it is—there may be some defect in the language which shall be corrected and put in proper wording but that does not matter, and it may be modified and that business can be left to Mr. Brohi to make correction of the language—is nevertheless very necessary. It is absolutely necessary that we should help those countries which are fighting for their independence as we fought for our own independence against the British Government—against their colonial system, against their Imperial domination. Now we have obtained our freedom. But there are people all over the world who are fighting against the domination of the foreigners. I had the opportunity of meeting some of the people of those countries who are fighting for independence against the British and other colonial rulers in Africa, for instance, Kenya, East Africa, North and South Rhodesia, etc. But the British Government is trying to put them down by all possible means, whether fair or foul. I met some of them in London this time also. You find every day in papers that some people are declared to be terrorists or Mau Mau men or Kokyus. What is the treatment meted out to them. These colonialists shoot them at sight,

[Shri Sris Chandra Chattopadhyaya]

shoot them down. In this way they are killing the people of Kenya. What is their offence? They want independence. What is the administration of Kenya? It is the collection of a few white men—Britishers. These white men have practically deprived the inhabitants of Kenya and Tanganyika and other places of their fatherlands, of their fertile fields and lands. After the first war practically all their fatherlands were seized and the indigenous population was driven into the jungles. These jungles are called their reserves. They must live there and their fatherlands have been grabbed. I have seen them. They had shown me some papers which I have got but unfortunately I have left them at my place. They showed me how the lands of these people were seized. They are poor people now and they have deprived them of all their lands and these people—these white people—have appropriated all their fatherlands. Now each Englishman has got thousands of *Bighas* and acres of land and the indigenous population has been reduced to the plight of landless labourers and they have now to cultivate the lands of these white men as labourers and farmers. So after depriving these people of their fatherlands these Englishmen have made them landless labourers, a poor and propertiless class with no rights whatsoever. They have to work for these white men to earn their living. That is the condition that I was told when I met these people. I met people from North Rhodesia and South Rhodesia. Now what is the plight of these people and what is their condition. I met these people last time also. Now that the movement for freedom in these areas is growing what the Britishers are doing is to amalgamate North Rhodesia, South Rhodesia, Tanganyika, Kenya and other parts to form one country—a sort of Federation, and a very large one. Do you know why they want to do it? They are doing it because there are only 2,000 to 5,000 white men in all these States and the indigenous population comprises of lakhs and lakhs. The number of Britishers or white men in each State is very small but if they form one big State out of these smaller areas then the number of these white men would increase and they would be able to carry things according to their designs. But people are opposing them. Now they want to unite all these areas to strengthen their own hands. Now despite this opposition the British Parliament or whoever is in authority have allowed the amalgamation of all these States. This is the condition of these so called States which would become one big federation, but there are other States like Nigeria, Gold Coast, etc., and I have met those people also. They are also fighting for independence. But these people who are really fighting for independence are sometimes dubbed as communists, sometimes as Kokyus and sometimes as dacoits. You know, Sir, when we fought for independence, our young men in Bengal were also dubbed as dacoits, murderers and what not. They first give some bad name and then they hang them. Now what about Malaya? During the second world war Malaya was left by the British colonial administration and it was seized by the Japanese. The British people left the people of Malaya in the lurch and ran away like beaten dogs, as they run away when they get good beating.

They ran away leaving them in the lurch at the mercy of the Japanese, but as soon as the war was over, they again wanted to occupy that land. These people who inhabited that land are fighting for their independence.

Now, what about Indo-China? The French people ran away from there also and now they are trying to subjugate these people again under France. Similar is the case with Tunisia. Tunisians are fighting for the last so many years and I remember that one Abdul Karim was banished

long ago because he was fighting for their independence. Why do not you tell these people that these places belong to coloured people ; why should they come here ; why should they not leave these places ? They have no right to remain in the lands belonging to coloured people. Tell them, we do not want your civilisation ; we have seen your entire civilisation, but now save us from your civilisation. Let us go on in our own way. But they will not go unless they are forced to leave as was the case with India. They have remained in India for 150 years and we know how much they have harmed us. Similarly, they are doing harm to those countries which they have occupied. Take the case of Zululand. . . .

**Mr. President :** Mr. Chattopadhyaya ! Does this come within the purview of the directive principles ?

**Shri Sris Chandra Chattopadhyaya :** Sir, I have finished. It is your duty, therefore, to see that these white people do not go and subjugate people. They have no right to be there ; they are aggressors. We all must show sympathy to these people who are suffering under them, so that they may gain their independence and saved from these oppressors. Therefore, I support the amendment though the language is to be properly changed.

**The Honourable Mr. A. K. Brohi :** Mr. President ! Sir, I have the highest possible respect for the Leader of the Opposition who has spoken with considerable feeling in respect of the amendment that has been moved by my honoured friend Mian Iftikharuddin. We yield to none in our desire to assist in all possible manner the liberation of the subjugated people of world and, in fact, in all international forums whether it is the Economic or Social Council or the Security Council or the General Assembly of the United Nations, the debates of these organisations will show that Pakistan representatives have always done their very best to see that the view-point of the oppressed and the suppressed section of humanity receives their full support. But while I appreciate with the emotions and the sentiments that have been responsible for the very soul-stirring discourses we have heard on the necessity of assisting suppressed people of the world, I would ask both of my friends to consider a few points and it may be that if they do so they might change their mind.

Now, in the first place, the proposal now is that we should say in the Chapter relating to the directives of the State Policy that it should be the endeavour of the State to lend all possible help to the subjugated people in the achievement of their national liberation. "All possible help" is the expression used. Now, in the first place, Sir, there may be a help, which may tantamount to interference in the domestic affairs of a Government of a particular country. The metropolitan Governments or what are known as colonial Governments as well as the dependencies they are controlling are but closely compact entities as known to international law and consequently if you do anything directly or indirectly which has the tendency in it of interfering in the domestic arrangement of the metropolitan Governments and the dependencies or colonies, it may be construed as an act of belligerency and Pakistan may be involved into a state of war by this type of enthusiastic but thoughtless action. You cannot ignore this aspect of the matter. It is one thing to uphold the cause of the subjugated people but it is another thing to lay down in your Constitution words of the amendment and thus afford a handle to irresponsible press and to the irresponsible politician who might wish to precipitate matters, who might create a difficult situation for Pakistan if and when any chance should arise. They would precipitate matters for the Government by drawing their attention to this particular clause by saying that in their opinion certain people are subjugated people,

[The Hon'ble Mr. A. K. Brohi]

who are endeavouring to achieve their independence, and why the Pakistan Government has not lent any active assistance to them in compliance with the directive principles of a policy mentioned in this Chapter. So, this clause is likely to involve Government into a very unhappy situation and when one is sitting to frame a Constitution, one is to be eternally vigilant and completely on the guard so as not to involve the Governments of the future in predicament where it may be impossible for them to help themselves out. In the context of this argument may I respectfully urge upon the Leader of the Opposition to consider the language that has been employed in Article 51 of the Constitution of "Bharat", or, the Constitution of India. That Article says :

"The State shall endeavour to promote international peace and security, maintain just and honourable relations between nations, foster respect for international laws and treaty obligations in the dealings of organisations and encourage settlement of international disputes by arbitration."

They have not gone to the length to which it is attempted by the supporters by this amendment that this House should commit the future Governments. The argument for it is obvious. The argument would be that an enunciation of this particular policy to be even contained in the Chapter relating to directive principles of State Policy is likely to involve Pakistan Government to a great deal of misunderstanding and it would create several complications which it would not be possible for the Government to face. This is the reason which compels us to oppose this amendment. The two things must be clearly distinguished ; one is sentiment the other is caution. Let us not mention matters in the Constitution which would put the Government of this country in a great difficulty. After all we who owe our independence to a struggle for liberation cannot be oblivious of our clear obligation, whenever possible to go to the assistance of the subjugated people of the world. This is all right, but, it is quite another thing altogether to lay down in black and white a clear enunciation of this principle in the Constitution. That will only embarrass Government of the future. I think, Sir, such an amendment will not be accepted and, therefore, we oppose the amendment for these reasons.

**Mr. President :** The question is :

"That to sub-paragraph (11) of paragraph 2, the following be added at the end :—

'and lend all possible help to them and to other subjugated people in the achievement of their national liberation.'

The motion was negatived.

**Mr. President :** The question is :

"That in paragraph 2 for sub-paragraphs (11) and (12), the following be substituted and the subsequent sub-paragraphs\* be re-numbered accordingly :—

'(11) The State should endeavour to strengthen the bonds of unity amongst Muslim countries and to promote peace and good-will among the peoples of the world.'

The motion was adopted.

\*Since the consideration of further amendments to other sub-paragraphs was going on Mr. President, with the consent of the House, allowed old sub-paragraph numbers to stand for the period of the consideration of the amendments of the sub-paragraph.—*Ed. of Deb.*

**Paragraph 2—Sub-Paragraph (13)**

**Shri Dharendra Nath Datta :** I move :

“That sub-paragraph (13) of paragraph 2 be omitted.”

Sir, I shall make my position clear here. If you read sub-paragraph (13) of paragraph 2, it would appear that only such person should be elected as Head of the State who, in the opinion of the electors, possesses ability, character, integrity and piety, and who is fit to conduct the affairs of the State in accordance with the Objectives Resolution. It occurs in the Chapter dealing with the Directive Principles of State Policy. The sub-paragraph says what should be the duty of the electors. It cannot be the Directive Principle of State Policy, because it is the electors who should elect the Head of the State. I agree that electors in making election of Head of the State should elect a person who possesses ability, character, integrity and piety. What I object to is that it cannot occur in Chapter II, Directive Principles of State Policy. The Chapter II deals with what should be the duty of the State and it should not deal with what should be the duty or the responsibility of the electors. With that point of view, I move my amendment.

**Mr. President :** Motion moved :

“That sub-paragraph (13) of paragraph 2 be omitted.”

**Mian Muhammad Iftikharuddin :** Sir, I want to speak.

**Mr. President :** Let all these amendments be moved first of all.

**The Honourable Mr. A. K. Brohi :** Sir, I beg to move :

“That in sub-paragraph (13) of paragraph 2, for the words ‘conduct the affairs of the State’ occurring in the fourth line, the words ‘perform his duties and obligations’ be substituted.”

Sir, it is a question of emphasis. Sub-paragraph (13) is a direction to the electors to elect a certain person who possesses ability, character, integrity and piety and who is fit to conduct the affairs of the State in accordance with the Objectives Resolution. The amendment proposed places the primary emphasis on the performance or his capacity to perform his duties and obligation in accordance with the Objectives Resolution.

**Mr. President :** Motion moved :

“That in sub-paragraph (13) of paragraph 2, for the words ‘conduct the affairs of the State’ occurring in the fourth line, the words ‘perform his duties and obligations’ be substituted.”

**Mian Muhammad Iftikharuddin :** \*Sir, I think this sub-paragraph (13) of paragraph 2 is altogether meaningless. Sir, we cannot lay down now as to what qualities a man who is to be the Head of the State is to possess. There is no judge on that. The electors are the sole judges of the integrity, character, etc., of a man. To put it down like this really is creating legal and other difficulties. The position of the future Heads of the State would become impossible and questionable, if not in a law court at least in the public forum on matters which really could not properly form the subject-matter of discussion in public meetings. The only test of the acceptability or the suitability of an individual to occupy the place of the Head of the State is whether the people like him or not. Usually in a democratic State suddenly overnight Prime Ministers and Heads of State are not imported. I can well believe that the people who command majority in this House cannot understand it because for them only six months ago, suddenly the Prime Minister who is much more powerful than the Head of the State of Pakistan was created and no body had thought of or

\*Speech not corrected by the Honourable Member.

[Mian Muhammad Iftikharuddin]

dreamt of his becoming the Prime Minister, even 98 or 95 per cent of the Members of the party which he represents....

**Mr. President :** You are again....

**Mian Muhammad Iftikharuddin :** \*I will not repeat that. All that I say is that this way of importing Heads of the State or Prime Ministers is not the practice of a democratic country. In democratic countries, whether they are going to be the Heads of the State, or the Prime Ministers or other high dignatories of the State, they are chosen after their past has been considered and approved by the public, after having been passed by the majority of the people of the State as a man of integrity, character and other qualities. That is what happens in the States of the World and to lay down like this really is I fear and suspect to boost up unnecessarily the Head of the State or any other person whom we may attribute these qualities, which even he does not possess. It is possible for the people who command majority in this House and I fear by the method in which elections are conducted in this country, people will be elected who would be really unacceptable and not really representatives of the people and to give them a certain type of halo and sanctity, perhaps these words are unnecessary. If this is not the object, then to bring in these words is meaningless, whom ever the people of Pakistan, no matter to what class, no matter to what Province he belongs, there should be the only quality that he should be a Pakistani, whom ever they elect be the best man of that party, the period during which....

**Shri Kamini Kumar Datta :** May I raise a point of order, Sir, before my friend has finished his speech. I agree with what has been said by my friend Mr. D. N. Datta, who is not only a Member of this House but a lawyer too. In the Chapter of Directive Principles of State Policy, such a provision can not come in. So I think instead of....

**Mian Muhammad Iftikharuddin :** You will speak on it.

**Shri Kamini Kumar Datta :** ... discussing matters further, I think that this clause cannot find a place in this Chapter II and it should be eliminated.

**The Honourable Mr. A. K. Brohi :** Sir....

**Mian Muhammad Iftikharuddin :** After the point of order, the discussion will go on.

**The Honourable Mr. A. K. Brohi :** May I save a little of the energy of my friend Iftikharuddin, energy which he might reserve for dealing with this item at a more appropriate time.

Sir, I personally, as a lawyer feel that there is a great deal of force in the argument that has been urged that after all sub-paragraph (13) is a clear direction to the Electors ; it is not a direction to the State.

**An Honourable Member :** Not surely.

**The Honourable Mr. A. K. Brohi :** As this point is one I am not able to deal with now, would the Members have any objection if I request that this question may be taken up as first thing tomorrow morning.

**Mr. President :** His proposal is that this item may be left over for the time being to be considered tomorrow.

\*Speech not corrected by the Honourable Member.

**Mr. Mohammad Abul Quasem** (East Bengal : Muslim) : It has come up before the House.

**Mr. President** : I think there can be no objection to what has been said by Mr. Brohi.

(At this stage Mr. Abdullah al-Mahmood stood up to speak and Mr. President saw him.)

**Mr. President** : Mr. Abdullah al-Mahmood ! you are not in your place and therefore you cannot speak.

I do not think there can be any objection to the proposal that this amendment may be left over for consideration till tomorrow morning. I think this is agreed to.

### Paragraph 2—Sub-paragraphs (14), (15) and (16)

**Mian Muhammad Iftikharuddin** : \*Sir, I move :

"That in sub-paragraph (14) of paragraph 2, the words 'It should be the endeavour of' occurring in the first line be omitted and for the word 'to' occurring in the same line, the word 'should' be substituted."

Sir, I will not take long on that. All that I want to say is that those who have participated in the struggle for independence will remember that all the patriotic parties at that time demanded that immediately judiciary be separated from the executive. You will remember, Sir, apart from the Indian National Congress, each provincial manifesto and also the central manifesto of the Muslim League demanded this. Now since then six years have already passed and not a finger has been raised, not a stone has been turned to bring up the realisation of that demand. Sir, it is a matter really not of months or years, it could be a matter of weeks if the Government wanted to separate the judiciary and the executive. In fact it is not a thing that is desired and if it comes about in 4 years or 5 years, all that would mean that for the next 4 years we would be governed by the executive in the matter of judiciary. If it had been that, one would expect perhaps where we have suffered from this injustice for the last so many years, let us suffer for a few years more. But this is not the position. The position today in Pakistan is that people are losing faith in the executive. They feel that justice cannot be secured in Pakistan : they feel that this method of achieving their end is proving fruitless : they feel insecure. The result is that there is frustration of which each one of us is aware. It would be of service to the State ; in fact, it would be service even to the rulers, if today they inspire this confidence in the people that justice will be done and that even though the State may be on one side and an individual on the other, justice will be done. People do not feel like that. You know, Sir, that in their daily dealings, those who have to deal with disturbances, with other complications of public life, who have in fact to rule the people, who have to use authority against the people, they cannot, even if when they happen to be honest and independent, be independent and honest because they are influenced by their administrative executive and even at times unconsciously they do injustice. Even if some of them do succeed in doing justice, which they do rarely, the confidence that separation of the judiciary from the executive will come is not there. Sir, this is a national necessity. It is like the food that is not supplied. It is a scarcity from which Pakistan is suffering today in commodities of every day use. As scarcity and famine could be a danger to the State, likewise this growing lack of

\*Speech not corrected by the Honourable Member.

[Mian Muhammad Iftikharuddin]

confidence in the Rulers, growing lack of confidence in the justice or in the machinery of justice is creating a crisis which has to be faced. If it is not done, it will endanger the position of the State that may not appeal to the people sitting opposite, it may even endanger their own position and people may have to think of other methods other than democratic methods which will be a disaster for Pakistan. So I hope that they will take the step even before the constitution comes into force. It will bring them good name : it will give confidence to the people and it will remove some of their frustration.

**Mr. President :** Motion moved :

"That in sub-paragraph (14) of paragraph 2, the words 'It should be the endeavour of' occurring in the first line be omitted and for the word 'to' occurring in the same line, the word 'should' be substituted."

**The Honourable Mr. A. K. Brohi :** Sir, the paragraph as it reads contain a clear statement that a "It should be endeavour of the State to effect the separation of the Judiciary from the Executive within three years."

Our sister country India in Article 50 did not go so far as that. All it said was that the State shall take steps to separate the Judiciary from the Executive in the Public Services of the State. The limitation of three years is not to be found in Article 50 of the Indian Constitution. Therefore comparing the two, there is at least one advantage that so far as the proposed separation is concerned, the period is limited to three years. I may tell my friend Mian Iftikharuddin that as far as I can see, today in Pakistan, there is not that close integration of the services so far as the judiciary and executive functions are concerned as at one time, was the case during the days of undivided India regime. For example in Sind already steps have been taken to make the Judiciary independent. I do not want to make a detailed statement on this particular point. On the other hand the question is of making a gradual change from the existing state of affairs to the proposed state of affairs. If we were to accept his amendment, then it will have accelerated the whole process of change to such an extent that it will appear revolutionary and it might upset the existing arrangements. He should be content with this clear directive that in three years this will be done. I have no doubt that within three years it could be done.

**Mr. President :** The question is :

"That in sub-paragraph (14) of paragraph 2, the word 'It should be the endeavour of' occurring in the first line be omitted and for the word 'to' occurring in the same line, the word 'should' be substituted.

The motion was negatived.

**Mr. President :** The question is :

"That Sub-paragraph (14) of paragraph 2 stand part of the Report."

The motion was adopted.

Sub-paragraphs (15) and (16) of paragraph 2 were added to the Report.

### Paragraph 2—Sub-paragraph (17)

**Sardar Shaukat Hyat Khan (Punjab : Muslim) :** Sir, I move :

"That for sub-paragraph (17) of paragraph 2, the following be substituted—

It should be the endeavour of the State to provide social security for all persons in Government and private employment by means of compulsory social insurance and such other measures as may be necessary."

Sir, instead of the word "Steps should be taken" I have substituted the words "It should be the endeavour of the State".

**Mian Muhammad Iftikharuddin :** Can he change that at this stage ?

**Sardar Shaukat Hyat Khan :** Sir, I have changed only a word.

Amendment as modified—

"It should be the endeavour of the State to provide social security for all persons in Government and private employment by means of compulsory social insurance and such other measures as may be necessary."

**Mian Muhammad Iftikharuddin :** May I ask this question, Sir ? This amendment stands in the name of both, Sardar Shaukat Hyat Khan and myself. I want to move the amendment as originally moved. Will I be allowed to move my amendment after he has spoken ?

**Mr. President :** Yes, to a limited extent. To the extent that instead of the words "steps should be taken", the words "It should be the endeavour of the State" have been used.

**Mian Muhammad Iftikharuddin :** There is a difference.....

**Sardar Shaukat Hyat Khan :** \*Sir, if Mian Saheb reads the amendment carefully, he will find that there is no difference. The present clause (17) provides that steps should be taken to provide suitable financial assistance to the dependants of those Government servants who die before retirement without making adequate provision for their maintenance. Sir, I think this clause in the Basic Principles Committee report is a very restrictive clause. It only provides for financial assistance to the dependants of Government servants, who die before the time of retirement or time of pension. What I have done in my amendment is that I have widened the scope and also brought in the servants of private companies and private people so that they should also be benefited from social security and they should not be given a little dole of this social security. Compulsory social insurance should take place, so that people are properly insured and, should any accident take place, there should be proper security for him through this compulsory insurance scheme, so that he does not have to go abegging. Sir, my amendment is very clear. I do not want to bring just the Government servants and make them a class of their own ; I want all people who are servants whether in private capacity or in Government service, should be given adequate security of service and should be provided for.

**Mr. President :** Motion moved :

"That for sub-paragraph (17) of paragraph 2 the following be substituted :—

'That it should be the endeavour of the State to provide social security for all persons in Government and private employment by means of compulsory social insurance and such other measures as may be necessary'."

**Mian Muhammad Iftikharuddin :** \*Sir, now I move my amendment.

Sir, I move :

"That for sub-paragraph (17) of paragraph 2, the following be substituted :—

'Steps should be taken to provide social security for all persons in Government and private employment by means of compulsory social insurance and such other measures as may be necessary.'"

Sir, the reason why this amendment is necessary, as Sardar Shaukat Hyat Khan has rightly pointed out, is that it should not be confined to the Government servants alone. My amendment is that it is one of the responsibilities of the State as is the responsibility of maintaining law and order. It is not a question of endeavouring. Sir, that has been the

\*Speech not corrected by the Honourable Member.

[Mian Muhammad Iftikharuddin]

usual way to get out of the obligation in the past and it will, I fear be a loophole for those who do not want to do their duty. Sir, what is to be realised in a State of the nature that we declare at one time we would form, is that it is the responsibility of the State to provide an individual work—an individual, a person is to be provided by the State work as that person is to be protected by the State if there is an outside danger. The fact that a person is killed by the bullet of the enemy and a person dies with hunger because he is not employed, so far as that person is concerned, Sir, that is the common end. And if it were just what we have been calling sham democracy, it was not necessary to bring this amendment. But, Sir, that democracy should be brought into being of which we boasted six or seven years ago. What would have distinguished us from those sham democracies would be that we would have taken the responsibility of the livelihood of the people. Even those States whom we call sham Western democratic States do it. It is well known to the people sitting here that in England there is an old system by which no body can starve because there are arrangements from the State by insurance schemes and other methods whereby he gets just enough to keep body and soul together. To say that in Pakistan, where we are trying to build a State in which people would really be independent, this will not be so, when it is even in England, the sham Democratic State or other States of that type, is most surprising. It would be a wrong boast on our part, and a hypocrisy to claim that we are going to create an ideal State. For this to form a part of directive principles of State policy, if for no other reason, at least to show the people what we mean, may not be it in practice, but at the same time, we are framing this Constitution to implement some of the promises that have been made it is necessary that this is incorporated.

**The Honourable Mr. A. K. Brohi :** Sir, you have heard a very interesting argument. I do not know, Sir, what difference in the world there is between the use of the words "It should be the endeavour" instead of the words "Steps should be taken."

**Mian Muhammad Iftikharuddin :** In one case it is imperative, in the other it is optional. The change does make a difference.

**Mr. Ghyasuddin Pathan (East Bengal : Muslim) :** Sir, it seems it is on account of the change in sides.

**Mian Muhammad Iftikharuddin :** Sardar Shaukat Hyat Khan seems to have improved by going on the other side!

**Mr. Ghyasuddin Pathan :** His English seems to have improved, anyway.

**The Honourable Mr. A. K. Brohi :** Mian Saheb seems to think there is a difference between the words... "It should be the endeavour" and "Steps should be taken". The difference seems to be owing to the change of sides. I would therefore again impress upon him....

**Mian Muhammad Iftikharuddin :** I have been impressing upon you every day....

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

The question is :

"That for sub-paragraph (17) of paragraph 2, the following be substituted :—

'That it should be the endeavour of the State to provide social security for all persons in Government and private employment by means of compulsory social insurance and such other measures as may be necessary.'"

The motion was adopted.

**Mr. President :** With the adoption of this amendment, the amendment of Mian Muhammad Iftikharuddin falls through. It need not be put to the House.

### Paragraph 2—Sub-paragraph (18)

**Mr. Abul Kasem Khan :** I move :

“That sub-paragraph (18) of paragraph 2 be omitted.”

Sir, as I was reading sub-paragraph (18), which runs thus :

“(18) The State should ensure that people should obtain justice in courts of law free of payment in any form to the State.”

Sir, this seems to me to be an impracticable suggestion. As Honourable Members of this House know, we have already such a large number of cases pending before our Courts that the delay caused in meeting out justice is very great. People who have gone deeply into this question have remarked that litigation in rural areas is considered to be a diversion in life. Sir, as you know, rural life is already dull and drab and people go to law courts on very flimsy matters. Nowadays when it costs them such a lot of money, when the court fees are so high and when we have such a large number of cases pending before our Courts, if we make it absolutely free, then we shall have to increase the number of Judges and Magistrates at least tenfold. So, Sir, I think that this step is not practicable and I hope the House will accept my amendment that this sub-paragraph should be omitted.

**Mr. President :** Motion moved :

“That Sub-paragraph (18) of paragraph 2 be omitted.”

**Shri Dharendra Nath Datta :** Mr President ! I move :

“That in sub-paragraph (18) of paragraph 2, for the words free of payment in any form to the State’ the words ‘on payment of cheap and uniform court fee to the State’ be substituted.”

Sir, as I was reading sub-paragraph (18), which runs thus :

“(18) The State should ensure that people should obtain justice in courts of law free of payment in any form to the State.”

I thought, Sir, that it was impossible, but I understand, Sir, that it is consistent with Islamic principles and that at least my friends over there are anxious that as it is consistent with the teaching of the Quran and the Sunnah—the teaching of the Quran is that justice should not be sold—it should be free. That was the reason why it was inserted as the directive principle : that the State should see that justice is not sold. There is a good deal of sense in it but having regard to the pecuniary conditions, having regard to the other factors, I feel, Sir, that it may not be possible and therefore my amendment can easily be accepted....

**Mr. President :** But will it be a proper directive principle ?

**Shri Dharendra Nath Datta :** Yes, it shall be a directive principle. At present in one State or Province, the court fee is Rs. 7|8 per hundred and in another province, it is Rs. 16|14 per hundred. As a matter of fact, so far as East Bengal is concerned, after the establishment of Pakistan, what has happened is that the court fee which was 7|8- per hundred—in undivided Bengal it was raised to Rs. 11|14|- —was raised to Rs. 16|14 in East Bengal, a rate unthought of anywhere in the world. Really it is denying justice to the aggrieved people. I am quite sure—I speak from my own experience—that really so far as East

[Shri Dharendra Nath Datta]

Bengal is concerned, a *Badmash* can take possession of one or two or five bighas of land from a person who is in rightful possession of the property and if he is poor he cannot go to the Court on account of the exorbitant rate of court fee. Is it possible, Sir,—it is unthinkable—that really the court fee should be Rs. 16/14 per hundred? It is obvious that when there is no court fee the litigation will increase and, although it may be consistent with Islamic principles, I feel that we should have a Court fee which should be cheap, so that the persons who are deprived of their rights may go to a Civil Court for redress of their grievances and it should not merely be cheap, it should be uniform throughout the whole State of Pakistan. Sir, it is most un-Islamic—I think the late Governor of East Bengal, who is present, will bear me out when I say that it is most un-Islamic—to deny justice to the aggrieved people by having such an exorbitant rate of court fee as Rs. 16/14. It is ridiculous—and not only ridiculous; it has brought shame on us—that the court fee should be so exorbitantly high. I therefore move this amendment and I hope the House will accept it.

**Mr. President :** Motion moved :

“That in sub-paragraph (18) of paragraph 2, for the words ‘free of payment in any form to the State’, the words ‘on payment of cheap and uniform court fee to the State’ be substituted.”

**Mr. Bahabesh Chandra Nandy** (East Bengal : General) : \*I support the amendment moved by Mr. Datta. Sir, the amendment proposed by my friend, Mr. Abul Kasem Khan, is a negative one. It is admitted that it is impracticable to do away with all court fees of all sorts, but if we remove this Clause altogether without providing that justice should be made easily available to a poor man, then we neglect our duty. So, I feel that instead of removing this Clause altogether, we should provide that the court fee should be cheap and uniform. These are the only few words that I have to say.

**Shri Sris Chandra Chattopadhyaya :** I oppose both the amendments : the amendment moved by Mr. Abul Kasem Khan as well as the amendment moved by Mr. Datta.... (*Interruption*).... Now this is a test ; so long I have been hearing in this House about Islamic principles ; this is the test.

**Mr. Bhupendra Kumar Datta** (East Bengal : General) : Where money is concerned, it is different.

**Shri Sris Chandra Chattopadhyaya :** Now, if you accept Mr. Abul Kasem's amendment, it will show that you have merely lip loyalty to your declared Islamic principles ; I shall consider all talk about Islamic principles to be a shame. This sub-paragraph was embodied in the directive principles after consulting many *Ulemas*. Mr. President, you know when we had finished our deliberations—I am not divulging any secret—a recommendation came from the *Ulemas*—not from our Board of Talimaat-i-Islamia, but from all the *Ulemas*—that this Clause is to be adopted....

**Mr. President :** I suppose henceforward you want to be a supporter of the *Ulemas* ?

**Shri Sris Chandra Chattopadhyaya :** So far as I am concerned, if anything is for the good of the people I am its supporter ; if it goes against the people, I shall always oppose it, whether it is from the *Ulemas*, from the jurists or even from my President ! But here this

\*Speech not corrected by the Honourable Member.

is very necessary in our country at least, because our country is a poor country. As my friend says, court fee in East Bengal has been raised to Rs. 16-14.

**Mr. Abul Kasem Khan :** Has the number of cases gone down ?

**Shri Sris Chandra Chattopadhyaya :** I do not know because I am not a practising lawyer now. Whether the number of cases has decreased or increased I do not know, but I know the spirit of litigants. They will sell their land and come to the court and they will pay whatever is demanded of them in the form of court fee, etc.

I enquired of the *Ulemas* in Muslim countries of the Middle East and was told that there is a rule there according to which not only the court fee is not levied, but the State pays the money of the decree, if one gets a decree. The money is to be realised from the defendants by the State. That was the rule in Islamic countries, unlike our country where court fee is levied at Rs. 16|14|- per Rs. 100|-. But when one gets a decree, it becomes merely a scrap of paper. It is not enforceable, with the result that nothing is realized. I think Mr. Brohi will also agree with me that 50 per cent. of the amount of decree is not realizable. Therefore, practically all the money is lost. So it is a very good provision which has been suggested by the *Ulemas*. I support the original clause and I want to see whether you really follow the Islamic principles.

**Shri Kamini Kumar Datta :** \*I think, Sir, no one should feel surprised that being a lawyer, even on active practice, I oppose the amendments and I am sincerely in support of the original proposition that people should get justice free of payment of court fees. As a matter of fact, I should not be understood that I am urging it in a spirit of retaliation against the Muslim League Party that having adopted Islamic principles now you adopt it. Far from it that on that basis I am urging it. I do not base my claim on that at all. Absolutely I oppose it on the elementary principle that it has become almost impossible for the poor people to get justice in courts, particularly in civil courts. I am saying this from my own experience and I think, I shall be supported by everybody who has got experience of the procedure in courts. Practically, the exaction of heavy court fee has amounted to denial of justice to the poor people and they are the largest number of litigants who deserve protection from court and when a man who has been deprived of his property, goes to the court to establish his claim he has to pay the court fee so that his claim may be entertained. Here I speak with some amount of reservation. I think in pre-British period there was no court fee in courts. It was the introduction of the British. They were a foreign power and they thought that it would be a good source of revenue by which the judicial officers could be paid. I do not lose sight of the fact that the maintenance of courts and judicial machinery requires a heavy expenditure. Judges are to be paid ; ministerial officers are to be paid and there are various contingent expenses also, but it seems to me that with provincial legislatures it has become a very easy process to just increase the court fee and to realize some revenue. I, therefore, seriously ask all of us to consider : can we not find any other source of revenue, by taxation or some such means so that the expenditure in connection with the maintenance of the law courts can be defrayed ? Law courts must exist, but time has come now for us to consider very seriously whether only those people in distress who are deprived of their property and are not in a position to pay court fee and to come to the court will have a primary right of justice from the court. The State is bound to protect its people, and giving justice to the people and administering

\*Speech not corrected by the Honourable Member.

[Shri Kamini Kumar Datta]

justice to the people is the primary duty of the State. So, Sir, let us consider very seriously if we can make the administration of justice for the poor people free and try to raise funds by other means to maintain our judiciary. So in this Chapter of directive principles, at least we may take a direction that the State should endeavour to do it. The wording may be changed in any way, but let us begin it ; let us make a real attempt to keep the door of administration of justice open to the poor people. As I have already said, I should not be misunderstood. I am not saying anything in any spirit against the Muslim League Party. I very sincerely make this point.

**The Honourable Mr. A. K. Brohi :** Sir, in the first place, I think the House ought to know that so far as the administration of criminal justice in this country is concerned, it is practically free and the only court fees that are payable are on the power of attorney which a counsel has to file and I am not aware that even in the case of a person who is an under-trial prisoner and who is called upon, to defend himself, any court fees are demanded of him, but, on the other hand, the law is that if he is charged with a serious crime, such as murder, the services of the Pauper Counsel are made available by the State. That is the position.

**Sardar Abdur Rab Khan Nishtar :** Court fee is not charged even for power of attorney.

**The Honourable Mr. A. K. Brohi :** That is what I have said. "The services of the Pauper Counsel being made available" comes to the same thing.

Then, Sir, there are two aspects of civil litigation. First is that so far as an impecunious person is concerned when goes to a court of law to enforce a right, if he should be able to satisfy the preliminary issue that his financial position is such that he is not capable of paying the court fees then in that case Order No. 33 of the C.P.C. becomes applicable under which he has a right to institute proceedings free as a pauper.

**Shri Kamini Kumar Datta :** Very difficult !

**The Honourable Mr. A. K. Brohi :** Please do not interrupt me. I am talking of law. I am not talking of anything else. You cannot contradict me. Please read the Civil Procedure Code. Whether in practice there are actually any difficulties or not is a separate problem. Probably the position varies from province to province. I have acted as the Advocate-General of my province and I can make authoritative statement with regard to the conditions in Sind. In my province there is no difficulty in instituting such proceedings.

The second point is about the injustice involved in making a man who is advancing a claim in a civil court of law to pay what is known as *ad valorem* fees. It is alleged that the amount he has to pay is enormous and often amounts to this that he is prevented from going to a court of Law for getting his claims enforced. May I tell the House that in the Islamic polity that I visualise the amount of claim that could be urged would considerably be diminished because of the equality of wealth which would be possessed by all the individuals ? The inequality which is today to be found in existence gives rise to inflated and enormous claims. And this aspect of the matter has to be borne in mind. You have to switch on to an order of society where equality of wealth is the rule and inequality is the exception, where everybody has enough to eat and wear and the rich do not become richer and the poor do not become still poorer. We have to take into account this aspect. The ideal is to establish an economic order where there is equality of opportunity ; everybody has

enough to eat and clothe himself with. If you postulate those things then surely the advancing of inflated claims amounting to lakhs of rupees and thousands of rupees cannot be visualised. In that case administration of justice with regard to payment of court fees would acquire a new complexion. As practical politicians till we are able to transform existing society, in which there is inequality of wealth, you have to maintain the costly apparatus of judiciary. The establishment of courts means expenditure: the judges have got to be paid till such time that a spirit of sacrifice is fostered in them so that they themselves renounce their claims to heavy salaries. In the existing circumstances court fees are inescapable.

There are two points to be noted: one is the desire to form an ideal state of society. In that ideal state of society the operation of the principle that nobody should be called upon to pay any court fee is to be seen in that perspective. The other is how to deal with the existing state of society which admittedly is materially different from the ideal state of society which we are endeavouring to establish. As statesmen, while legislating with regard to the future constitution of the country we cannot be oblivious of these facts. In a state of enthusiasm and generous emotion we should not try to do the impossible. Consider the number of courts that you have to constitute in this country; consider the costly apparatus that you have to maintain! A proposal that we should make justice freely available in the light of facts would be impracticable. If anybody is under the impression that the Islamic principles are so very rigid that they have to be *volens volens* adhered to without due regard to the actual conditions, he is very much mistaken. Islam is not that kind of religion—at any rate that is my view. Having regard to actual conditions for some time to come at least the court fees cannot be done away with.

Mr. Datta remarked that court fees vary from province to province. He said it is Rs. 16/14 *ad valorem* in his province. But court fees is a provincial subject and the proper place where this matter can be agitated is the East Bengal Legislature. I am sure if a man of his stature raises his voice the conscience of the Bengal Legislature would be touched. But to exalt an isolated exception to the rule of a general principle and to insist that a declaration should be made here in the Directive Principles of State Policy is, according to me, to ignore the exigencies of the present situation. It is in the interest of society at large that sub-paragraph (18) of paragraph 2 should be omitted.

**Mr. President:** I would like to point out one thing: the House has already accepted that all the existing laws are to be brought into conformity with Islamic principles. If the court fee laws are found to be not in conformity with Islamic laws, they will be repealed.

I am putting first of all the amendment of Mr. Datta.

The question is:

“That in sub-paragraph (18) of paragraph 2, for the words ‘free of payment in any form to the State,’ the words ‘on payment of cheap and uniform court fee to the State’ be substituted.”

The motion was negatived.

**Mr. President:** The question is:

“That sub-paragraph (18) of paragraph 2 be omitted.”

The motion was adopted.

**Paragraph 2—new sub-paragraph (19)**

**Prof. Raj Kumar Chakraverty** (East Bengal : General) : I beg to move :

“That to paragraph 2, the following new sub-paragraph (19) be added at the end :—

‘(19) There should be no detention without trial’.”

Sir, my proposal is a very modest one in the sense that it is to be included in the directive principles of State policy. As you all know, Sir, these directive principles are not justiciable. They cannot be enforced in a court of law. I say it should be the endeavour of the administration that there should be no detention without trial. It is not very much I am asking the House for. The House has already accepted so many good things in the directive principles. I do not think addition of one more good thing should be objected to.

Sir, let not this proposal unnerve the Ministry of the Interior, because I know if there is an emergency or if there is a declaration of war the Government can detain certain persons without trial. But that should not be the normal condition of things. In a period of emergency the Government has those powers. What I want to say is that in normal conditions it should be the endeavour and effort of the State not to detain a person without trial. In support of my contention I say it is not only a matter of commonsense that no person should be convicted and detained without trial but it is one of the noblest principles of criminal jurisprudence accepted all over the civilized world. Therefore I have no hesitation in commending this principle for the acceptance of this House. Sir, I think further I am on surer ground in moving this proposition in this House, the majority of whose members have been committed to Islamic principles. This principle occurs in the *Hadis* and the *Hadis* says, let me repeat it, Sir, and kindly excuse me for bad pronunciation as I am not familiar with Arabic :

*La yusaro rajo-lun beghairil adl.*

*La yusaro* meaning ‘do not arrest or imprison’, *rajo-lun* ‘any man’, *beghairil adl* ‘without trial’.

I have explained the meaning. This is a *Hadis* by Malik. Now, Sir, these are the words of the Holy Prophet which were uttered by Hazrat Omar while he was dispensing justice between two persons. Not only is this based on commonsense and the noblest principle of jurisprudence, but on an Islamic principle which I have no doubt will be accepted by this House. Sir, I am very sure the Members sitting opposite have their full allegiance to the Quran and Sunnah, and when I move this proposal they will be good enough to accept this one good thing also as they have already accepted so many good things in the Directive Principles.

**Sardar Abdur Rab Khan Nishtar** : What amendment ?

**Prof. Raj Kumar Chakraverty** : The one that I have just now moved.

**Sardar Abdur Rab Khan Nishtar** : You can say there will be no conviction without trial and all will accept it. The *Hadis* that you are reading relates to something like this.

**Prof. Raj Kumar Chakraverty** : It is after all a directive principle. It should be the endeavour of the State. I am not forcing the State to do so in any way. It is merely a directive principle.

**Sardar Abdur Rab Khan Nishtar :** As I have stated according to the *Hadis*, as translated by you, you should ask that "there should be no conviction without trial".

**Mr. President :** Motion moved :

"That to paragraph 2, the following new sub-paragraph (19) be added at the end :—

'(19) There should be no detention without trial'."

**Mr. Abul Kasem Khan :** Sir, I rise to oppose the amendment of my friend Prof. Raj Kumar Chakraverty.

**Shri Dharendra Nath Datta :** Oppose !

**Mr. Abul Kasem Khan :** Oppose, yes. I am very much surprised that my friend has come forward with such an amendment. The right that has been secured for the citizens of Pakistan under the Fundamental Rights he now wants to bring under the directive principles of State policy. I am referring to clause 3 of the Fundamental Rights which reads like this :

"That right of a citizen to move the High Court for the right of *Habeas Corpus* shall not be suspended except in case of external or internal threat to the security of the State or in case of great emergency."

This is a very important fundamental right and it fully secures the right of a citizen not to be detained without trial. This is not a matter which can be relegated to the position of a directive principle of State policy, which is not justiciable as we all know. Sir, in our neighbouring State, Bharat, also they have adopted the same provision under the fundamental rights and cases of detention without trial are examined by independent judges of High Court at regular intervals and people are set free on the recommendation of the examining judges. Sir, I am really surprised that my friend wants to place that important right under directive principles of State policy. It is a matter of such vital importance to all the citizens of the State that I have every hope that he will withdraw his amendment.

**The Honourable Malik Muhammad Firoz Khan Noon (Punjab : Muslim) :** Are we sitting till 8 p.m. ?

**Mr. President :** Till 8-30 p.m.

**Mr. Bhupendra Kumar Datta :** I support the amendment of Prof. Raj Kumar Chakraverty.

**Mr. Ghyasuddin Pathan :** Support or oppose ?

**Shri Bhupendra Kumar Datta :** In supporting it I shall first of all say that it should be a directive principle of State policy because the policy of the British Government that was followed by them, namely, detention without trial, tends to corrupt the State and the whole administration itself. I claim to be an authority on this subject having been 23 years in prison without trial.

**Mr. Ghyasuddin Pathan :** A very big qualification.

**Mr. Bhupendra Kumar Datta :** I have seen things for myself. I have been four times in jail and I have no hesitation in admitting now that so far as my detention during the first world war and between 1930—38 was

[Mr. Bhupendra Kumar Datta]

concerned there might have been some justification but in 1923 I was arrested and kept for five years in detention and again in 1941 I was arrested and kept in prison till 1946, and during these two periods they had absolutely no justification to arrest and put me in jail. The practice that started from the times of the Britishers threatens to continue and that practice shows that whenever a man is suspected he is always treated as a suspect. Whether there happens anything or not in the country to justify that man's detention, he is always taken into custody. And in some cases the State or the ruling power uses this machinery for its political ends. In 1923 I along with others was arrested just when Mr. C. R. Das started his Swarajya Party. He appointed its organizers. We had no connection with any secret activities, with any revolutionary activities at the time, rather we opposed those activities that were really launched in Bengal by an agent provocateur. And this word "agent provocateur" I myself introduced into Indian politics. I got it from Azev's character in Russian history. They used the word "agent provocateur" and this use has continued from British days till now. Now these detentions still continue in Pakistan and as we were arrested in 1923 for reasons that could not justify detention without trial, I can say that during the language movement in East Bengal some of the legislators were also arrested and kept in detention who had absolutely no connection with the language movement at all. Simply because they opposed the Chief Minister in the Assembly when he said there had been no firing and there was some exchange of heated words over that, that very night they were taken into custody and put under detention, simply because this gentleman, the Chief Minister of East Bengal personally disliked these legislators. He put them into prison just as we were detained in 1923 for helping Swarajya Party. I find similarly in all the Provinces in Pakistan detentions are taking place just to help the ruling power, the ruling clique, the ruling party in running their elections and in strengthening their position. That is how it corrupts the State and the administration and therefore I support Prof. Chakraverty's amendment that it should be the part of the directive principles of State policy and that no one should be detained without trial.

**Shri Dharendra Nath Datta :** \*Mr. President, Sir, I rise to support the amendment moved by Prof. Raj Kumar Chakraverty that there should be no detention without trial. In this matter, Sir, there can be no difference of opinion because the liberty of a person can actually be taken away after the trial has been made and the person is found guilty of some offence, otherwise he is entitled to liberty under the fundamental rights. There should be trial for the commission of an offence. Sir, what does trial mean after all? It is contended that for the public safety and safety of Pakistan persons should be detained, but our experience is that in times of peace, not in times of war, not in times of emergency, persons have been detained. After Pakistan came into being, during the last six or seven years, we have all experienced and our experience in this respect is very bitter, that really persons had been detained and detained for long. I know in Bengal, there are large number of persons who are still under detention, not because they committed any offence, but because they hold certain opinion, without trial. They are demanding that charges, if any, should be brought against them and they should be tried in open courts and if they are found guilty of the charges of treason or anything else, they really should be punished. Sir, it has

\*Speech not corrected by the Honourable Member.

been contended that under the Public Safety Act, which I shall call lawless law—it is not a law at all—charges are made very vague and indefinite saying that you are the enemy of the State, that you have committed such and such a thing, no, not committed, but that you are guilty of treason, such charges are levelled against those persons who are kept in detention without trial; even printed matter is brought against them. There is no specific charge in any case whatsoever. I shall call the Public Safety Act a lawless law because there is no specific charge that is brought against any of the detenus. I know of all the cases and there is not a single specific charge against any person. It has been contended also, Sir, that there is review of cases after six months. I ask what is this review of cases? The review is done not in the presence of the person detained but they are reviewed on the basis of some papers placed before the authorities. Really, Sir, the persons who are actually detained are not allowed to explain their position. Therefore, Sir, this detention without trial is an act which should not be resorted to by any civilized Government. A State should cease to call itself a State if it detains large number of people without trial.

Really, Sir, I will bring to the notice of the House the case of Khan Abdul Ghaffar Khan who has fought for the freedom of India and Pakistan sub-continent. There is no doubt about it that he fought for this freedom. He was a Member of this Constituent Assembly and he declared here that he is a friend of Pakistan and he wants to develop Pakistan. He made that declaration in this august House. But, Sir, his fault is that he formed a party which is called Peoples Party and on account of that fact and on account of the fact that he did not join Muslim League, and he had the courage and audacity of forming Peoples Party, he was arrested and kept in detention for about five years and a half. There is absolutely no charge against him. Peace prevails in his province, N.-W.F.P., and yet he is detained. Not only, Sir, he, but his whole family has been detained. A man who fought for the freedom of India is detained along with his whole family. If you read the history of the detention of such an illustrious man of which any country can be proud, it is very painful history, it is disgraceful history, it is shameful history. I have already stated that if a State can imprison a large number of persons without any trial, really it ceases the right of being called a State. Government should always see to the good of the people and not act against their interests. So, Sir, I urge upon the Government that they should accept the amendment of Prof. Raj Kumar Chakraverty that there should be no detention without trial. Sir, there has been not only this detention without trial but restrictions have been imposed upon the movement of certain persons. What are these things? The person who was the Chief Minister of N.-W.F.P. at one time, the brother of Khan Abdul Ghaffar Khan, his movements have been restricted for the last six or seven years.

This is the history of N.-W.F.P. and now I come to the history of East Bengal of which I have first-hand knowledge. I know, Sir, and I do know, because I was present on that day, that on account of language controversy some incident took place and on account of that harrowing incident, many persons were kept in detention for a long period. Members of the Eastern Bengal Legislative Assembly belonging to the minority community and majority community were arrested on the grounds that they were advocates of the demand that Bengali should be one of the State languages of Pakistan. That is a demand on which all Bengal is united that Bengali should be one of the State languages of Pakistan. The

[Shri Dharendra Nath Datta]

student community came out with this demand and some incident had happened. The East Bengal Government were not pleased with that incident and therefore they arrested some persons and detained them for a large number of years.

**Mr. President :** Your time is almost up. You have got one minute more.

**Shri Dharendra Nath Datta :** I have also almost finished my speech, it is also going to be 8-30 p.m. I, therefore, feel that the majority party, my friends over there, can have no objection in accepting this amendment of Prof. Raj Kumar Chakraverty. With these few words I support the amendment.

**Mr. President :** Let me adjourn the House now.

The House stands adjourned till 10 a.m, tomorrow.

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The Assembly then adjourned till Ten of the Clock, in the Morning, on Thursday, the 29th October, 1953.