



CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Friday, the 30th October, 1953

OFFICIAL REPORT

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Friday, the 30th October, 1953

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

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

PART I

CHAPTER III—PROCEDURE FOR PREVENTING LEGISLATION REPUGNANT TO THE QURAN AND THE SUNNAH—*contd.*

Paragraph 3—*contd.*

Mr. President: We resume further consideration paragraph by paragraph of the Report of the Basic Principles Committee. Paragraph 3 was under discussion and Mr. Nandy held the floor of the House. He may please continue.

Mr. Bhabesh Chandra Nandy (East Bengal : General) : Mr. President, Sir, I was discussing the amendment proposed by Prof. Raj Kumar Chakraverty with reference to Chapter III. Sir, I pointed out that to put such a clause here was absolutely unnecessary and redundant, because the legislators will be mostly Muslims and they will fully know how to guard their interests, their religious feelings, and how to safeguard the principles of their own religion. But to insist for such a clause here simply means the lack of confidence of the people in their leaders and distrust among themselves; otherwise there is no reason to press for such a clause. If those people who will be coming here as legislators betray the faith in their religion, betray the voice of their conscience and the law of God, how can you prevent them and set them right by such a clause in the Constitution? So it is absolutely redundant. Secondly, I point out that this is unworkable. Time is short; so I would not dilate much, but let me illustrate the position. Let me take one instance: suppose a legislation has got to be made for protecting Hindu temples where images are placed, worship is carried regularly. Now a question may be raised that to make a legislation for the protection of such temples which would mean encouragement of idol worship, goes against the principle of Holy Quran. But it is the duty of the State to safeguard the religious places and practices of the non-Muslims, though a protest might be raised by some orthodox section of the Muslims. This clause in the Constitution will simply encourage the fanatics. There are many religious and social practices of non-Muslims and particularly Hindus which are not in conformity with the Islamic view of life. Similarly in respect of most of their personal laws, a protest can be raised by a section of orthodox Muslims that no legislation on them is valid because it would go against the principles of the Holy Quran. The wording of this clause is that "no legislature should enact any law which is repugnant to the Holy Quran and the Sunnah". It is all comprehensive: it is a very dangerous thing, Sir, it was quite relevant when Mr. K. K. Dutta had proposed to do away with some of the mischief of this clause. Sir, it is evident that non-Muslims will have serious misgivings on this issue. If the Muslims really want that no

[Mr. Bhabesh Chandra Nandy]

legislation should be passed which revolts against their religious conviction, they can do that best by sending some Maulvis and Maulanas here as legislators so that the orthodox Muslims should be best represented to guard the interests of the Muslims and to respect their religious feelings and the principles of Islam. Sir, this misgiving on the part of the minorities is justified on all hands. Just I want to cite an instance. The other day, when the cricket match was arranged by Mr. Jaffer, it was decried as un-Islamic. On the occasion of Durga Puja, we the Hindu Members celebrated *Bijoya* in Baluch Mess and we invited the Governor-General on that occasion where he remarked that the celebration was an auspicious one. Long article was published in the leading paper of Karachi, I mean *Dawn* stating that it was very strange and unreasonable that the Head of an Islamic State should call a religious function of another community as 'auspicious'. Sir, I do not know what the common men will feel when the educated people representing the paper like *Dawn* could think like this. God knows where they are driving us to. Again, Sir, in a daily paper *The Morning News* a letter was published condemning a function held in the house of Dr. Malik where some Bengali Muslims and Hindus met and sang a song praising their Bengali language. The latter condemned that as idolatrous. Sir, can you imagine if the educated people, the most advanced sections of the people and the most progressive elements in the society can think like this, what can we expect from the common men. How they will behave to the non-Muslims when no legislation can be made in the legislature of the State of Pakistan which is not in conformity with the principles of Quran and Sunnah? I remember, Sir, after partition, lives of the non-Muslims were made almost miserable by the overzealous Muslim fanatics. There was a long established custom of the Hindus at Dacca of taking a big procession on the occasion of the birth-day of Sri Krishna and this was called *Janashtami* Procession in which all communities took part. Khwaja Nazimuddin was the Chief Minister of East Bengal at that time in 1947-48 when in spite of his best efforts the procession was not allowed to pass along a road by some fanatical Muslim elements. Khwaja Sahib could not help. This is what happens with the non-Muslims in East Bengal. This clause in the Constitution will only encourage this fanaticism.

Mr. President: Mr. Nandy, you have come to the end of your time.

Mr. Bhabesh Chandra Nandy: Of course I do not fear the educated progressive Muslims. A large majority of the Muslims are illiterate, educationally backward, and are wanting in broad outlook. All this is the result of lack of education.

Then another important point. If you look to the history of independence and how it developed you will find that independence came as a result of the struggle by the entire population of this sub-continent. When independence came this sub-continent was divided into two dominions as a result of the demand by the Muslim population to have necessary facilities for the development of their religious culture and practices. Each dominion was a composite population of both Hindus and Muslims. We take this State as our own where our religion and culture could find equal status. But our expectations are going to be very seriously distorted by these moves in the constitution-making. We the minorities, the non-Muslims, are in a dilemma today, because we have settled here and we do not know where you are driving us to. Sir, this is a very important thing. I will not discuss that point now any further but will deal with it at some future time when I get the next opportunity.

Everybody can understand what serious reaction it is going to create in the minds of minorities and I am afraid it has created serious apprehensions in the minds of the minorities. We have got fanatics and political manipulators here who are forcing the progressive elements of the Muslim League Assembly party to accept these clauses. Similarly there are fanatics on the other side of the border in the sister Dominion who will also press their Government for Ram Rajya, etc. They will press for Hinduisation of every thing. That would make the life of Muslim minorities there miserable. We the minorities feel seriously over this; the feelings here may lead to the reaction on the other side. Sir, I am afraid this is creating a reaction in the minds of minorities there as well and it is creating a bad name that in this 20th century we Pakistanis are going to create a constitution which is based entirely upon religion. I do not believe religion and politics can separate completely. But that must not be pushed too far. That is my view. I do not claim to know the Islamic theology. So far as I know the cardinal principle of Islam is the Unity of God. I can understand if the Muslims say that this cardinal principle cannot be contradicted. But I cannot understand why it is said that every bit of law and activities should be in accordance with the principles of the Quran. No doubt, religion can give a fundamental background to politics but if brought to regulate the details it will create disaster. Politics has its own character; in politics we are not dealing only with our own people, we are not dealing only with our own State but we have to keep ourselves in conformity with the world progress, within international environment and with other progressive developments of the world.

With these few words, I would request the House to consider this amendment favourably.

Sardar Amir Azam Khan (Punjab : Muslim) : Sir, I have heard with great interest the discussion on the most important paragraph of the Basic Principles Committee Report—paragraph No. 3. I have not the slightest hesitation to say it will be the life-blood of the future constitution of Pakistan. Only its retention or deletion will make the constitution Islamic or secular. Take it out of this report and in spite of all the other Islamic provisions which are there, the constitution will be a constitution of a secular state. On the other hand, with the help of this paragraph, we can achieve that ideology and ideals for the accomplishment of which we fought for the achievement of Pakistan.

Sir, this paragraph had been attacked by many of our friends in two different ways. Different sorts of arguments have been advanced for its deletion or for its alteration in a way to make it quite ineffective, useless and meaningless. Some of my friends, Mr. Nandy who has just preceded me and Mr. K. K. Dutta, have argued that although they could appreciate the anxiety of the Muslims to legislate their future laws in conformity with the injunctions of the Quran and the Sunnah, they could not understand why this clause should be inserted in the constitution. They are of the view that as the majority of the members of the future legislatures or rather the overwhelming majority would be Muslims, so this majority can be a very effective check and they can stop the legislature from passing any Act which may be repugnant to the Holy Quran or the Sunnah.

Sir, if you analyse this argument, we reach only one conclusion, that they are not against the idea that the future legislation in Pakistan should in no way be repugnant to the Holy Quran and the Sunnah. They concede this right to the Muslims and they say that this provision is not necessary because the Muslims will be in the legislatures in majority and

[Sardar Amir Azam Khan]

they can look after it that no legislation is enacted which is against the principles of the Holy Quran and the Sunnah. But I say that when you believe that no legislation in future should be enacted which may be repugnant to the Holy Quran and the Sunnah, then why not have this provision in the Constitution. This will create confidence in our people and they will believe that we mean what we say. Otherwise the people will be suspicious. There is no reason why this clause should be taken away from the Constitution. At the same time our friends have come forward demanding that there should be provision that their personal law shall not be affected. But if they have got such a great faith in the Muslim leaders of the future, then when there is an injunction in the Quran that a Muslim is bound to see that he will not in any way interfere with their personal laws of non-Muslims why do not they have confidence in them. When they demand a certain thing for them they speak with one voice and when they speak on another thing which affects Muslims, they speak with another voice.

Sir, there is another argument which has been advanced and is being advanced for the last many days, and I may say, Sir, that that argument is purely mis-statement of facts. It is used simply to create certain impressions in the mind of the people abroad that the Muslim League Members of this House have gone back on the promises made by their leaders. That argument, Sir, is about some agreement which they say took place on the 3rd of June. Yesterday even Mian Saheb, who talks too much and talks without thinking, also referred to this agreement. Sir, every body in the Opposition is speaking in that vein for the last many days and I think that it must be made clear that there was no such agreement. The so called agreement of 3rd June was merely an announcement or statement by His Majesty's Government. Some one said that it was accepted by the Quaid-i-Azam. It was accepted because Quaid-i-Azam had no choice. He was confronted with two alternatives—either to accept the plan, truncated and moth-eaten Pakistan or to leave the entire ten crore Muslims of Indian sub-continent at the mercy of the Hindu majority. He had no other choice. Sir, here I would like to quote from a book written by Mr. Campbell Johnson. Sir, I do not want to take much time of the House, but I feel that the point must be made clear as some insinuations are being made that we have gone back on our words. Sir, this is on page 86, in the chapter in which he describes the 'Crisis at Simla'. He is discussing that Mountbatten was already in Simla, Quaid-i-Azam had arrived there and draft plan was to be presented and Mr. Menon was of the view that there must be some alternative solution because it was possible that Mr. Jinnah might not agree to draft plan. Sir, I quote the following, which is very important :

"But, he (means Lord Mountbatten) seriously doubted whether either of these considerations was in Jinnah's mind. Nonetheless he agreed with V. P.'s thesis on the advisability of having available a clear alternative in his dealings with Jinnah. The second-line plan would involve demission of power under the present constitution. It would not in the last resort require the agreement of the Indian leaders. Provincial subjects would be demitted to existing Provincial Governments, and the Central subjects to the existing Central Government; but it would put the Muslims under the Hindu majority."

Sir, that was the proposal with which Quaid-i-Azam was confronted. He was either to accept that plan through which he was offered truncated Pakistan or to leave the entire Muslim nation at the mercy of the Hindu majority. So he had to accept, but there was no agreement.

Sir, now I would like to read that speech of Quaid-i-Azam which he broadcast on the 3rd June.

Mr. President: Only one minute more.

Sardar Amir Azam Khan: Sir, this is a very important matter and I would request you to allow two or three minutes more to me, because there is some misunderstanding, which must be cleared.

So, Sir, in his broadcast speech, Quaid-i-Azam said :

"It is clear that the plan does not meet in some respects our point of view and we cannot say and feel that we are satisfied or that we agree to some of the matters dealt with by the Plan. It is for us now to consider whether the plan as presented to us by His Majesty's Government should be accepted as a compromise or a settlement."

Then, Sir, there is another passage from the announcement or the statement—not agreement—which proves my contention. I will just quote a few lines and then finish my speech. It says :

"It has always been the desire of His Majesty's Government that power should be transferred in accordance with the wishes of the Indian people themselves. This task would have been greatly facilitated if there had been agreement among the Indian political parties."

This sentence is very important :

"This task would have been greatly facilitated if there had been agreement among the Indian political parties."

This shows, Sir, that there was no agreement. Further it goes on :

"In the absence of such agreement the task of devising a method by which the wishes of the Indian people can be ascertained has devolved upon His Majesty's Government. After full consultation with the political leaders in India, His Majesty's Government has decided to adopt for the purpose the Plan set out below."

Sir, this is what I wanted to point out to refute the mischievous allegation being made against us that the Muslim League Members have gone back on the words, on the promises, on the agreement which was made by the Quaid-i-Azam. Sir, Quaid-i-Azam never made any such agreement and the Plan in itself is very clear on this point that there was no agreement between the Indian leaders and that is why this announcement was made and Quaid-i-Azam was confronted with only two alternatives,—either to accept moth-eaten and truncated Pakistan or to leave the entire Muslim population of the entire sub-continent at the mercy of the majority community, and he accepted the plan. I hope my friends will not make such mischievous allegations in future.

Mr. Nur Ahmed (East Bengal : Muslim) : Sir, I oppose all the amendments. Sir, paragraph 3 is most important, and I think, fundamental for the Constitution which is being framed for Pakistan. Pakistan has been brought into being for experimenting an ideology. Sir, I believe that incorporation of this important clause in the Constitution of Pakistan is a great charter of rights for minorities, a great charter for the non-Muslims in Pakistan.

Sir, our non-Muslim friends have never studied the Quran and Islamic principles. This reminds me of the remarks of the famous Radicalist and once communist Mr. M. N. Roy, who in his book *Historical Role of Islam* has very lucidly and vividly explained the part Islam has played in the world for the elevation of the suffering humanity and also securing the human rights to the people who were treated as serfs..... no rights as men and women. He says that the Hindus who have lived for a thousand years with the Muslims are still very ignorant of the history of Islam—the very liberal provisions and principles of Islam, and the revolutionary part played by Islam in humanising the human society and the then world.

[Mr. Nur Ahmed]

Now, Sir, what is in this clause? This clause says no law shall be enacted which is repugnant to the Holy Quran and the Sunnah. But, Sir, the very embodiment of this clause in the Constitution guarantees that the minorities shall be allowed to practise their religion and to have justice according to their own personal laws. If my friends had studied the history of Islam they would have known that under the Muslim rule throughout the world there used to be separate Courts, separate Judges of their own personnel, to administer the personal laws of the non-Muslims to non-Muslims by their own Judge; that was the liberal treatment accorded to non-Muslims. Our Prophet was very liberal to non-Muslims; he even allowed non-Muslims to pray in his own mosque according to their own rites. Therefore, I think my learned friends opposite are labouring under a misapprehension. Of course, I do not blame them fully. We Mussalmans are to some extent to blame. Perhaps if we had practised our religion truly according to Islam they would not have had this prejudice against the words "Quran" and "Sunnah".

I appeal to them to consider this matter very coolly and dispassionately. This is very fundamental to the Constitution of Pakistan and so far as they are concerned, their full rights, full liberty for their religion and safeguard of personal laws have been secured for them by the fundamental rights adopted and then there is the Objectives Resolution and the Directive Principles which fully safeguard their rights and in enacting any law we will have to consider all these safeguards. Then the Quran and the Sunnah is a guarantee for the safeguard of their rights. I therefore think that any amendment will not be for the good of the minorities; it will go against them. So I appeal to them to consider this matter dispassionately, as I find that most of the arguments advanced by my friends opposite are based on supposition, on wrong premises and inferences not justified by facts and are due to their prejudice against the words "Quran" and "Sunnah". I appeal to them to study the Holy Quran and the treatment which was accorded to the minorities, the non-Muslims, by the Prophet and his successors, which will, I am sure, dispel their apprehensions. They should not therefore ask for the deletion of this clause but should consider it as a charter of their rights. I think and believe, this clause is the charter of the minorities rights in Pakistan.

With these few words I strongly oppose the amendment.

Shri Sris Chandra Chattopadhyaya (East Bengal: General): Mr. President, I did not intend to join in this debate at all but for the observations made by my esteemed friend, Mr. Amir Azam Khan. I consider that the Reports of the Fundamental Rights Committee and of the Minorities Committee are sufficient safeguards for us, unless the provisions therein are interpreted differently, as we find different interpretations even of the speeches of Mr. Jinnah. If the Reports of the Fundamental Rights and Minorities Committees become part of this Constitution, that I shall consider a real safeguard, but if they remain outside the Constitution that will create this difficulty. Here by the phrase 'repugnant to Quran and Sunnah' it appears as if we are giving a go-by to the rights given in the Fundamental Rights Committee's Report. Therefore, we shall have to make it clear that this will not affect the non-Muslims. That is why my colleagues here tabled this amendment. I did not mind when this Report was prepared and I signed it, but now on account of different interpretation of different statements and safeguards a simple amendment has been given that this will be for the Muslims only and not for the non-Muslims. Besides, I find from the

speeches of my friends, as also from the speech of my friend Maulana Akram Khan, that the two-nation theory still exists, whereas we wanted that Pakistan would consist of only one nation. I have already said enough on this point and I do not want to go over the ground again. If you want to stick to that, then constitution must be framed in a befitting way, like the Constitutions of England, Scotland and Ireland. If you call a Scotch an Englishman, he will resent. Similarly, if you call an Irish an Englishman, he will be angry, because they are different nations. In the same way, in Canada there are two nations—French and English. Their constitutions have been framed accordingly. But, here, my friend Mr. Amir Azam Khan practically repudiates the Agreement of 3rd June, 1947, saying there was no agreement but it was merely a statement. Not only that; from his speech I find that Mr. Mohammad Ali Jinnah, a stalwart, a man of principle, was coerced to accept it. I would ask him to read the entire speeches of Mr. Jinnah on this point—not one or two lines from his speeches, and he will find that he was not the man to be coerced into accepting a thing which ran counter to his principles or which was derogatory to his self-respect. It is true if the 3rd June scheme was not accepted India would not have been divided. I know many treaties are treated just as scraps of paper by powerful signatories. You may also do that, if you like, because you are in the majority, with regard to the Agreement of 3rd June, but I stick to it and I say that Mr. Jinnah never repudiated that. This agreement was based on mutual understanding and in the scheme, the Muslims and the non-Muslims were to get representation according to their population, giving the non-Muslims as many rights as to Muslims. Otherwise there would have been different provisions altogether. There would have been provisions for exchange of population. It was not by any concession or by favour or generosity that representation was agreed upon. I, therefore, want you to think in those terms—in the terms of one nation—and not in terms of your or majority interests. If there is one nation the question of minority or majority does not arise. The words minority and majority do not find place in my dictionary. I always say there is no majority or minority in Pakistan. We are all citizens of Pakistan. We are Pakistanis first and not Hindus, Muslims or Christians first. Of course, my friend Mr. Nishtar's speech showed that they were Muslims first. He did not say that they were Pakistanis first. He did not say that. I say if you talk of one nation, then I am a Pakistani first, everybody is a Pakistani first. Otherwise you will say that you are a Muslim nation and I have to say that I am a Hindu nation according to whatever religion I may accept. I want that there will be one nation, because we are small in numbers. We must not have a two-nation theory in Pakistan. Therefore, I support the amendment as this question has been raised. At the same time, I say this will be a dangerous proposition. If you say that agreement is null and void and repudiate that agreement, it will be a dangerous step. In India Hindus are in majority and Muslims are in a minority. If there is one nation there cannot be any question of minority or majority, but if there are two nations then there will be a great danger to the Muslims of India as a whole. We are about one crore and form 13 per cent of the entire population of Pakistan, whereas Muslims are only 9 or 10 per cent in India of the whole population; of course, their number is much larger than ours, namely, 4 crores. There are some fanatical Hindus in India, as there are some fanatical Muslims here in Pakistan. I know they will create difficulties on both sides. As fanatics here are clamouring here for Islamic State, there are also fanatics there who are clamouring for a Hindu State in India. They talk of *Ram Rajya* and *Sonatonic* principles. I do not want *Ram Rajya*, but I want *People's Rajya*. I have run my race; I may die tomorrow, because I have lived longer than

[Shri Sris Chandra Chattopadhyaya]

many people do generally, but only at the last moment I say: "Do not repudiate that agreement. This will be a great danger for the Muslims of India."

With these few words, I resume my seat.

Mr. Janendra Chandra Majumdar (East Bengal: General): Sir, I rise to oppose the motion regarding the clause relating to repugnancy to Quran and Sunnah. My reasons for it are that if we look to the development of Islamic jurisprudence, we find that when Prophet Mohammad was living and Madina was capital every one looked to him for guidance.

But subsequently when Islam spread further then different schools grew up. May I remind how these developments took place? First the Hanifites came. They depend on Quran and the Sunnah. After the Hanifites came the Malikites. They did observe the Quran and Sunnah but established a new principle that when a rule founded on even a valid analogy would work a general injury, it was to be set aside; justice must not be overcome by logic. Also the conception of agreement (*ijma*) was developed in that period. Next came the school of Ash-Shafa'i. It lays stress on traditions, that is, Sunnah but gave to the principle of agreement its full rights. The agreement of the people was to be the voice of God. "My people", said a tradition from Mohammad "will never agree in error". I mean by people God's people. If you mean Muslims only even in that case here the Muslims will be in a majority and agreement amongst them will be the voice of God. So great stress was laid on agreement.

Then, Sir, our Muslim friends believe that Mohammad is the last prophet. Probably that is true in the sense that prophet means one who receives through revelation messages from God. Mohammad lived in the Age of Revelations and that age is fast going and there is no probability of a new prophet appearing. We notice that Age of Science has come. It is based on observation and not on revelations from God. If a certain scientific law does not satisfy a certain observation, that law must go. You remember there was a theory by which the universe was Geocentric, i.e., the sun and planets revolve round the earth which was challenged by Gallilio who propounded the present theory the earth revolves round the sun. It was against religious principles of Christians but still it was adopted, though Gallilio had to give his life for advocating his theory. You know the law of gravitation; you know the law of thermo-dynamics and dynamics which were the basis for the improvements of the modern age. Now the law of gravitation is also going to be modified by the new theory propounded by Einstein—the theory of Relativity. In the modern world we must depend on facts based on observation. You know from the theory of Evolution that many races and species vanished on account of struggle for existence as those races and species could not adapt to the environments. If we want to survive we must adapt ourselves to the environment. So, Sir, if we want to live, prosper and survive then we must adapt our laws as was done by the Islamic world—adapt ourselves to the circumstances and not always look to Quran and Sunnah. Sir, as I have already said my other principal reason for opposing this is that I want to exclude religion from the sphere of politics of the country. If we mix up religion with politics and adopt this as a state policy then the result will be disastrous.

With these words, I oppose.

Sardar Abdur Rab Khan Nishtar (Punjab: Muslim): Sir, in the brief space of ten minutes it is impossible for me to do justice to the

point raised by my Honourable friends. I, therefore, crave the indulgence of the Chair if I am forced to exceed, although I shall try to finish my remarks within the shortest possible time.

The first thing which I must straightaway is the apprehension expressed by my friends Mr. Chattopadhyaya, that there is intention on the part of any Pakistani to go back on any pledge that may have been given by Quaid-i-Azam. Let me assure him that no one in Pakistan can dare to say or do anything which goes against the pledges given by Quaid-i-Azam to non-Muslims or Muslims. The so-called agreement of 3rd June has been referred to. In my speech at the time of general discussion I referred to this position and explained that there is nothing in the announcement of 3rd June which debars us from enacting a constitution of the type which is now on the anvil. If a single sentence, a single paragraph of that announcement can be quoted against it, we would be prepared to reconsider. I have gone through it. There is nothing in it, and whatever is given therein that has been carried out. The pledges which Quaid-i-Azam gave outside this announcement of 3rd June—(that is the announcement of the British Government)—are that the legitimate rights of the minorities will be safeguarded. This is what was included in that resolution which is known as the Pakistan Resolution of 1940. You will find, Sir, that in the Fundamental Rights and in several other places we have tried to safeguard the legitimate rights of the minorities. May be that on certain matters there is difference of opinion between this side and the Honourable Member of the Congress Party as to what is legitimate and what is not legitimate. That is a question of opinion. But so far as their legitimate rights are concerned, there is none in Pakistan who can challenge their claim that they should be safeguarded. So, there is no question of anybody going back on any agreement or on any pledge which Quaid-i-Azam may have given.

Mr. President: I think Mr. Chattopadhyaya expressed a fear that Fundamental Rights passed by this House will not be incorporated in the Constitution.

Sardar Abdur Rab Khan Nishtar: I am coming to that, Sir. So far as the question of Fundamental Rights forming part of this Constitution is concerned, the approach of the Constituent Assembly has been that they should be taken first. May be that it was an accident but the fact remains that the first portion of the Constitution which has been agreed to by this Constituent Assembly relates to Fundamental Rights and nobody is going to interfere with them. They are going to form part of the Constitution. If there is any apprehension in the mind of my Honourable friends, I assure them that so far as I know no member of this House intends to omit Fundamental Rights from the Constitution.

Now with regard to certain theories of political philosophy and a few verses and traditions which were quoted by some Honourable members, I am very glad to know that effort is being made on behalf of those who so far did not study Islam to study it so that they may be able to find it for themselves as to whether it is really such a dangerous thing for non-Muslims as it is being alleged in certain circles. It is unfortunate that our friends could not get sufficient time to study Islam fully. When they study Islamic teachings fully, I have no doubt in my mind that even if they do not agree with the principles of Islam as a religion, and they are at liberty not to accept them, they would feel satisfied on this point that the legitimate rights of minorities are fully safeguarded by Islam, I am sure, they will be fully convinced. I hope that as further studies are carried on it will help my friends a lot and

[Sardar Abdur Rab Khan Nishtar]

help us also because there will be a class of Hindus who will be knowing something about Islamic teachings and we shall not be talking to persons who do not appreciate those teachings. Mr. Chakraverty quoted a verse and it was:

Ar-rijal-o qawwamoona alau-nisa.

From that he inferred that no woman can become a member of the Assembly. Can this verse be interpreted like that?

Prof. Raj Kumar Chakraverty (East Bengal: General): That is what the Talimaat-e-Islamia have said.

Sardar Abdur Rab Khan Nishtar: I do not know. It is so; it is a very far-fetched interpretation. My friend should know that such interpretations have been put by some people upon your own religious books. Here in this very House in connection with the discussion of separate electorates a gentleman gave quotations from your religious books but you could not even hear them with patience. You became so impatient that you walked out of the House. At that time nothing was quoted from Muslim books. All quotations were from your books. You thought those interpretations not only far-fetched but obnoxious. You did not even tolerate listening to them. Is it therefore fair for you, as I said the other day, to take up saying from here and a saying from there and use it against Islam. I leave it to you, why repeat those things in such a way.

Sir, one point which was raised by Mr. K. K. Datta against clause 3. It was that it puts a clog upon the powers of the legislature. Yes, that is correct but is it something unknown; is it something with which you have never agreed, if anybody attempts to remove those provisions they will at once begin to shout? For instance a wrong interpretation of the speech of Mr. Amir Azam Khan made my friend Mr. Chattopadhyaya apprehend that fundamental rights will not be included in the constitution and he pressed that these fundamental rights should be there. What does the inclusion of fundamental rights mean. It means putting a clog upon the legislature because it cannot legislate against those fundamental rights. Is it not so? If you accept that principle so far as you are concerned it should be open for the Muslims also to say well for us it is a fundamental thing that in an Islamic State a legislature should not pass any law against the Quran and Sunnah. Can it be called unjust interference with the powers of legislature? And how is this attitude consistent with the demand for fundamental rights? The clogs on the powers of the legislature do exist. We have ourselves provided for these in various forms. In a federal constitution many clauses exist which are clogs on Provincial and Central Legislatures. It is not something unknown to the Constitutional law. Therefore I admit that that this section will amount to clog on the liberty of the Legislature. I agree that this would act as a limitation on the powers of the Legislature but it is not something unprecedented.

Prof. Raj Kumar Chakraverty: May I put one question to my friend if you would permit me? If there is a conflict between any provision of the fundamental rights and the contents of the Quran and the Sunnah what will happen?

Sardar Abdur Rab Khan Nishtar: I do not accept this proposition that there is anything in fundamental rights against the Quran and Sunnah and so there is no necessity for me to give a reply. We have accepted the fundamental rights with open eyes and we believe all these were in accordance with the Quran and the Sunnah.

Now, Sir, regarding the question of not bringing religion into the field of politics, there are two schools of thought. They have existed all along in history. Some say religion should not be brought into politics, others say that religion has a lot to do with politics. Now in our own times there are people like my friends who believe that religion should have nothing to do with politics. As against that the greatest Hindu of modern age, Mr. Gandhi, did believe that religion has had to do a lot with politics. As a matter of fact so far as the question of non-violence is concerned, he used to say, that he believes in it as a religion but he did not press other Congressmen to believe in it as religion. They were required to accept it as a policy. As I have had a little connection with the Congress I know this used to be repeated very often by Mr. Gandhi. He used to explain that so far as non-violence question is concerned, he believes in it as religion but those who did not agree with him they should adopt it as a policy. It was in the same spirit that I said the other day that so far as Islamic philosophy is concerned we believe in it as a religion. Our non-Muslim friends should accept it as policy. It was just in accord with the attitude of Mr. Gandhi himself which he took in connection with the question of non-violence. There is a difference of opinion even amongst the Congress members. One of them stood up and said he was not in agreement with the proposition that religion should have anything to do with politics. It should touch only a limited sphere. There are differences on this point. Let us therefore agree to differ.

Then, Sir, it is stated that society grows but Quran and *Hadis* relate to a period when economy was not so complicated, but it is for this very reason that so far as Quran and *Hadis* are concerned you get mainly guiding principles and 90 to 95 per cent. of the field of human life has been left to the discretion of Muslims. According to Islam this field is known as *Mubahat*, that is permissible. Islam being a living religion, a dynamic religion, a religion for all times and climates, naturally envisaged that it will have to be in vogue in different types of society and in different circumstances. Therefore liberty is given to the people to frame various laws and pass various orders in accordance with the exigencies of time. It is only a small sphere which is of a basic nature where clear directions have been given and so far as the rest of the field is concerned, we have been left free. While acting in that sphere, we have to keep those basic principles as guiding principles and to proceed in the light of them. Now, for instance, my friend says that there was at one time a theory that the whole Universe revolved round the earth but later on another theory came out that it revolves round the sun. So far as these matters are concerned, what has Quran stated to us? Neither the one nor the other. Quran says, you think for yourself; the whole of the Universe is before you; God has given you knowledge; he has given you prudence and wisdom; you study and think over the matter and decide for yourself. If there is any change of theory then it is the change of the interpretations and not the change in Quran and Sunnah; change in the interpretation of Quran and Sunnah given from time to time by various philosophers according to the knowledge available to a particular society at a particular time.

Sir, the question of nationality is very much upsetting my friend Mr. Chattopadhyaya as he brings it into discussion again and again. I said the other day that so far as the concept of Muslim nation is concerned, that has been our belief since ever and will be our belief for ever, but so far as Pakistan is concerned, we being Muslims and you being Hindus, we can remain as Pakistanis. For political purposes we do

[Sardar Abdur Rab Khan Nishtar]

describe ourselves as Pakistanis; we are the citizens of one State; our interests are common, our future is common and our present is common. And, therefore, as Pakistanis we have to work together in the interest of us all and in the interest of the country and join hands together. In Canada you find French and Englishmen, two nations, but all the same, they are Canadians. Similarly, we belong to Muslim nation and you belong to Hindu community—but this should not create any difficulties for us in being citizens of one State, Pakistan. As I stated previously in pre-partitioned India though we believed that we were a Muslim nation but used to describe ourselves for political purposes as Indians. So, there should not be any difficulty on that score. We are all common citizens of Pakistan. So far as our non-Muslim friends are concerned they and Muslims of Pakistan have got a common citizenship; we may not have common nationhood, but we have got common citizenship. I am avoiding the word "nationality" because for political purposes, certain nationality is to be given to the citizens of a particular country. So, we have got common citizenship and that is the basis on which we have to work together and we are required to work together.

My friend also referred to the question of our excluding money matters, fiscal measures, from the operation of this clause. That is a measure of a temporary nature as I stated in my speech during the general discussion. It has been included as a precautionary measure with a view to give us an opportunity to survey the whole position and to find out as to whether there is any conflict between Islamic principles of economy and the present day economy and how can we adjust the two in the interest of Pakistan so that the development and progress of Pakistan does not in any way suffer. It does not mean that we are excluding them for all times to come. There is no intention of that type. What we intend to do is to get time to study the whole situation and bring about adjustment. We believe that because Islam guides all spheres of our activities and contains principles for our guidance and is a practical religion, it will not be impossible for us to find out a solution for these difficulties. But, at present we are in such a position that we cannot make a change from the present system of economy to an Islamic system of economy overnight. For that reason, a provision of this nature has been included and according to the interpretation of Ulemas which is unanimous, this is permissible. This again shows how political Islam is.

Prof. Raj Kumar Chakraverty: No time limit has been given in the Constitution.

Sardar Abdur Rab Khan Nishtar: Well I have explained to you what the actual intention is. How the phrase will appear in the Draft Constitution, that is quite a different matter, but this is the intention of those who have made this recommendation.

Sir, one of my friends said that when the original Interim Report was published, there was no objection to the absence of section 3 but that objections were only with regard to the question of representation. I think there is some misunderstanding on this point. As a matter of fact, the objections that we received contained very large number of representations from all over Pakistan—to the effect that we should have a positive section in the Constitution that our laws should be in accordance with Quran and Sunnah. What we have done is that only a section of negative nature has been put in, debarring any legislation which is against Quran and Sunnah. It is wrong that it was not in response to public criticism or demand that we have included such a

clause and all of a sudden somebody one morning got up with this idea in his head and got it passed by the members of the Basic Principles Committee. It is not correct. It was after examining the criticisms made by the public that the Basic Principles Committee decided that a provision of this nature should be included in the Report.

So far as amendments are concerned, the Honourable Minister for Law intends to deal with them and therefore I need not touch them.

The Honourable Mr. A. K. Brohi (Sind : Muslim) : Mr. President, Sir, I would like to cover one or two points which merit a special reply more so when no one as yet has dealt with these points. I would only advert to the question that was asked by Prof. Raj Kumar Chakraverty of my friend Sardar Abdur Rab Nishtar : what will be the constitutional position if it comes to be realised that in any of the fundamental rights that are mentioned in the Constitution, there is repugnancy discoverable between the enactment therein and the enactments in paragraph (3). Sardar Abdur Rab Nishtar like a real politician got out of the problem by saying that he did not admit any such repugnancy to be possible. I do not think that is a reply that satisfies Prof. Raj Kumar Chakraverty. I, therefore, would like to attempt a reply which might satisfy him and it is this, Sir, that if you see the terms of paragraph 3, it prohibits future legislation from being repugnant to the Holy Quran and the Sunnah. Therefore, when an argument would be raised before the Supreme Court, whether or not, what the future legislators enact, is contrary to the Holy Quran the attention of the Federal Court will be directed on that clause and it will continue to deal only with the specific question whether it is repugnant or not to the Holy Quran and the Sunnah.

Now I come to the fundamental rights. Sir, the question will be whether or not any of the rights that have been mentioned in the Chapter have been contravened by not only prospective legislation but even legislation in the past : in other words, its operation is far more extensive than that of paragraph 3. Thus the operation of the fundamental rights is far more extensive than the operation of the negative clause in paragraph 3. If you read paragraph 15 of the Interim Report on Fundamental rights as adopted by the Constituent Assembly of Pakistan on the 6th October, 1950, you will find this saving clause which says :

"Save with regard to matters governed by the personal law of a Community or otherwise expressly provided in this Constitution, any law in force in any part of Pakistan at the time of commencement of this Constitution shall be void in so far as it is repugnant to any provisions of this part, and any law made hereafter which contravenes any of the provisions of this part, shall to the extent of such contraventions, be void."

So this saving clause is a double-edged sword. It has in the first place prospective operation. It deals with all cases of future legislation which might negative the fundamental rights. It also operates with regard to the existing laws. So far as paragraph 3 is concerned it is not only negative but it has purely a prospective operation. Now let us see the question that has been raised by Prof. Raj Kumar Chakraverty. How does he visualise that so far as the fundamental rights are concerned, they can come in conflict with the operation of paragraph 3 ? If the legislation is contrary to the fundamental rights, then paragraph 15 will come to your assistance. Only paragraph 3 goes a little further that over and above the repugnancy, so far as fundamental rights are concerned, if there is further repugnancy to the Holy Quran and the Sunnah, then to that extent all repugnant prospective legislation shall be void. So, Sir, if you comprehend the import of paragraph

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15 and read it in conjunction with paragraph 3, the question asked by the Professor cannot be asked for the simple reason that the Supreme Court of Pakistan in compliance with the requirement of paragraph 3 is to confine itself to an altogether different issue from the one that can be raised under paragraph 15. Section (3) merely provides a further step. So a question of conflict is at all not conceivable. If my friend looks at it from this point of view, I hope he will realize that the question raised by him is meaningless.

I come to another point which I think is of some substance. May I humbly remind the House that so far as the Objectives Resolution was concerned, it made it imperative, in the way I construe the provision of the Objectives Resolution, that paragraph 3 be enacted? If the direction which was given in the Objectives Resolution was at all to be carried out, we cannot see how the paragraph 3 could have been avoided. I would respectfully draw the attention of the House to that paragraph. The Objectives Resolution says:

"Whereas sovereignty over the entire Universe belongs to God Almighty alone, and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust."

So, Sir, the Constituent Assembly of Pakistan having declared that sovereignty lies with God and having stated that it has been delegated to the people and it is to be exercised within the limits imposed by Him it has to provide under the Constitution a statement that legislative competence of the Federal Legislature of the future is subject to those limits that have been prescribed by Allah in the Holy Quran and the Sunnah. Then the question of observing these limitations on the legislative sovereignty of Pakistan becomes absolutely imperative. In other words, the exercise of the sovereign authority of the legislature is hampered and is restricted by the direction contained in the first paragraph of the Objectives Resolution which has been already accepted. Once you accepted it, then it follows, that you cannot avoid the logic of what is contained in paragraph 3 because it merely recognises that there are limitations and those limitations are to be found in the Holy Quran and the Sunnah. All that paragraph 3 says is that if you happen to trespass and cross beyond these limits, to that extent of trespass, your legislation shall be void. I think this is absolutely implicit in the Objectives Resolution. You have to have paragraph 3, there is no escape from it.

There is one thing more. An argument was raised that in some essential manner the Constitution of the Board of the Experts of the Islamic Law envisaged in the remaining paragraph of this Chapter was something to be preferred to the present solution of the problem, viz., that the question of determining repugnancy should be handed over to the Supreme Court. That was the argument of Mr. K. K. Datta, if I am not mistaken. In the same manner his argument was that anyhow sovereignty was with the people even after the advice had been tendered to the Head of the State by a Board of Ulemas that a piece of legislation was contrary to the Quran. The Head of the State had to submit the Bill back but then once again the verdict of the people was final. To that extent he said that the legislative sovereignty was with the people but under the new proposals it had been impaired. May I request him to see and examine the foundation of his own argument? In a sense, after the Constitution is framed the Federal Legislature of the future will not be sovereign as it will be bound by the provision of this Constitution. It would not be able to go beyond the provision of

the Constitution except in a certain manner, for example, if the Federal legislature passes a law which more appropriately can be passed by the Provincial legislature, to that extent that legislation would be void. Thus its authority is ultimately restricted. In cases where there is any dispute or difference over any matter between the law-making functions of the Federal Legislature and the Provincial legislature, my friend will concede that this difference would be resolved by the Supreme Court. In fact the Supreme Court is going to be the custodian of this Constitution. Now with regard to the limitations that have to be imposed on the future law-making authority of the Federal legislature, my friend would be prepared to concede that it should be the Federal Court that should decide whether or not any law is repugnant to the limitations placed in the Constitution. We would more or less be moving in a vicious circle if we constitute ourselves as judges of the Constitution and if we ourselves as Legislature were to see whether or not certain limitations had been observed. It would be merely an eye-wash and it would not satisfy any body at all. The due observance of law-making powers is determined by the Federal Court; it is thus but proper that the limitations on law-making power imposed by paragraph 3 should also be determined by the Federal Court. This course has one advantage for the Opposition Members. The advantage is that supposing a House which will be as you say, largely constituted by a predominant Muslim majority, due to brute majority strength is able to carry out a law into operation which as a matter of fact is contrary to the spirit of the Holy Quran and the Sunnah, then you as a minority would be helpless. There would be no forum for you to challenge the legality of that law. There will be brute majority on the one hand and aggrieved minority on the other. If you could go to the Federal Court to challenge that law, you are as good as any body else to do that. That is the second point that I wanted to deal with.

A question has been raised that Muslims who will be in a majority in this House, could be trusted to enact a law which will avoid the repugnancy to Quran and the Sunnah so considering that the legislature in the future will be constituted on adult franchise basis, there is every possibility of emotion running the better of them; there is every possibility of ignorance triumphing over clear injunctions of the Holy Quran: consequently this is a better safeguard that the operation of this clause should be handed over to the Supreme Court of Pakistan. There was one other point that was made to which I would like to make a brief reply: and that was that so far as the Holy Quran and the Sunnah are concerned, they seem in the judgement of some of the Members of the Opposition to be completely incompatible with science and scientific spirit. I think this is a very unfair charge to make. If there is one thing that can be demonstrated more than anything else from the intellectual history of mankind, it is this: that science and scientific spirit are the contribution of the Holy Quran to the world. I refuse to believe that there was such a thing as inductive science, i.e., science which is based upon observation and experiment, before the Holy Quran was revealed. In fact by now this assertion is one that which may be considered as historically proved. This is not my assertion, the other day I quoted Dr. Rokhert Briffault on this point. He says quite clearly in his *Making of Humanity* that it is to the Arabs that science and scientific spirit owes its very existence and that science and scientific spirit, he says, is the most decisive factor in the modern world. By all means charge us with this that we do not reflect the light of Holy Quran. I have pleaded guilty to that charge, but the honourable member cannot attack the Holy Book and say that the

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ideas contained therein are contrary to the spirit of the science and scientific advancement. If any one does that he is challenging the very facts of history, facts which better people than ourselves have admitted over and over again and by now the evidence is so over-whelming that it does not lie with any scholar to dispute it. It will be sheer waste of time of the House if I speak more on this point. In the Holy Quran there is a Chapter on the "Bee" "Spider", "Time", "Thunder", "Light" and so on and so forth. All this has provoked reflection and the Muslim philosophy and science have dealt with these matters.

These are the observations which I want to make. I am constrained to oppose the amendment. Once the Objectives Resolution is passed, it follows as night follows day, that we should have paragraph 3. It is a great change, a great revolution, that instead of going to the Moulvis well versed in Islamic law and principles, you are to approach the Federal Court for the determination of those questions.

Prof. Raj Kumar Chakraverty: What do you say about the amendment about personal law that we have tabled?

The Honourable Mr. A. K. Brohi: With regard to the personal law, you have already been given guarantee contained in the Directive Principles. If, Sir, you give me a few minutes more, I shall be able to answer that question and I hope to give an answer which will satisfy you. I would appeal to the reason in you. Para. 3 is merely restrictive and of a negative nature. It says that no legislature should enact any law which is repugnant to the Holy Quran and the Sunnah. Now you want a positive guarantee that even if a future legislature happens to make a law which comes in conflict with the personal law of the minorities, then to the extent of conflict that law will be declared *ultra vires* and void. That is the position. But does that not flow from paragraph 3. The scope of paragraph 3 is merely repugnancy between legislation and the Holy Quran and the Sunnah. Now what you say is that if the legislature of the future happens to pass law which in the opinion of the minorities is contrary to the personal law then to that extent it should be void and how can you locate this positive proviso in the context of para 3. In whatever other place the provision may come, it cannot come in here at all. Now so far as the personal law of the Hindus is concerned, if you want a guarantee that legislature should not enact a law counter to it can be provided somewhere else assuming you are not satisfied with a statement to that effect already made in the chapter relating to Directive Principles of State Policy.

Mr. President: See para 15 of the Fundamental Rights.

The Honourable Mr. A. K. Brohi: Para 15 says that wherever the operation of the Fundamental Rights militates against the personal law, then to that extent of repugnancy the personal law will prevail. But they are going a step further. What about the legislature of the future passing any law contrary to the personal law and they say: Give us an assurance here in this Chapter.

Shri Dharendra Nath Datta: We say that this para shall not apply to the personal law.

The Honourable Mr. A. K. Brohi: Then you have not followed me at all. What does this paragraph say? This paragraph says that if anything is passed contrary to the Holy Quran and the Sunnah, to that extent that legislation will disappear from the Statute

Book. Paragraph 3 talks of repugnancy with laws of the Quran and the Sunnah. You are supposed to be great logicians. Let us not indulge in cross talk. I have not yet completed discussion on this point.

Shri Dharendra Nath Datta : We do not understand. We say that it has been declared that the personal law of the non-Muslims shall not be interfered with and cannot be interfered with because it has been provided in the Holy Quran that the personal law of the non-Muslims shall not and cannot be interfered with. This is an injunction of the Holy Quran. If that is so, what harm is there to make a declaration that it shall not apply to the personal law of non-Muslims.

The Honourable Mr. A. K. Brohi : I will be able to answer that point. My friend started saying that we do not believe in reason, you give us assurance *nolens volens*. May I state the point for the consideration of the honourable member who brought it to my attention ? In the first place, if the operation of paragraph 3 is justiciable, the matter will go to the Federal Court, the argument there would be that a certain personal law enacted by the future legislation is contrary to the law of the Holy Quran and the Sunnah and that by itself will include the directive that nothing shall be done to interfere with the personal law. That becomes a justiciable issue by reason of paragraph 3. We have said that it is enjoined in the Holy Quran that the personal laws of the non-Muslims should be respected and should not be interfered with and if that is contained in the Holy Quran, then para 3 by itself contains guarantee that it becomes justiciable. You can take the issue to the Federal Court and say that being an invasion of the personal law it is also by that very fact contrary to the Holy Quran and the Sunnah.

Shri Dharendra Nath Datta : Should there not be a declaration in the Statute Book ?

The Honourable Mr. A. K. Brohi : We are not here to give declaration.

Shri Kamini Kumar Dutta (East Bengal : General) : As far as I am able to understand, it seems to me that the idea is that in the Holy Quran there is an injunction that no personal law of the non-Muslims should be interfered with. We want this. If in any future legislation, a conflict should arise between the existing personal law of a non-Muslim and an injunction in the Holy Quran, according to your statement, in that case the personal law will prevail. This is the underlying principle of the Quran. In order to remove all apprehensions in the minds of non-Muslims, we want that a clause should be inserted in such a manner that the injunction of the Quran that it will not in any way affect any existing personal law of the non-Muslims should be in the constitution.

The Honourable Mr. A. K. Brohi : I have a short answer to that. Supposing we give this guarantee also. Assuming for the sake of argument the Federal Court interpreting the Holy Quran and the Sunnah say that our guarantee is redundant and that it should not have been given. I am talking of the extreme case to show your argument is *reductio ad absurdum*. After all the Constitution has to be interpreted. The Federal Court comes to the conclusion that this particular assurance that has been given by the Constituent Assembly is in excess of what is contained in the Holy Quran and the Sunnah there will be stalemate. As lawyers we should be practical men. Here we are not making public declarations. That means all kinds of declarations should be made—that food should be provided for minorities, cloth

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should be provided for minorities and all kinds of facilities should be provided for minorities. These are all nice declarations. I wish we could give them all. While drafting a Constitution, let us talk with reason and prudence. Therefore, I appeal to their reason.

Shri Kamini Kumar Datta: Sir, the question of repugnancy would arise if there is a conflict between injunction of the Quran and personal law of non-Muslims. Of course, according to your interpretation there is another injunction in the Quran that the personal law should prevail.

The Honourable Mr. A. K. Brohi: You have said.....

Shri Dharendra Nath Datta: But unless it is in the Statute Book, it has no value. Even if it is redundant and unnecessary, it is necessary that such a provision should be included there to remove all apprehensions from the mind of minority community.

The Honourable Mr. A. K. Brohi: Sir, I think there should be a limit. This is an argument which befits children. We are not distributing sweets here; we are framing a constitution.

Mr. President: Now I will put the amendment to vote.

The question is:

"That to paragraph 3, the following be added at the end:

'This provision should not apply to the personal laws of the non-Muslim citizens.'"

Let there be a division.

The House then divided.

AYES—12.

Mr. Prem Hari Barma.
Prof. Raj Kumar Chakraverty.
Shri Sris Chandra Chattopadhyaya.
Mr. Akshay Kumar Das.
Shri Dharendra Nath Datta.
Mr. Bhupendra Kumar Datta.

Shri Kamini Kumar Datta.
Mr. Janendra Chandra Majumdar.
Mr. Birat Chandra Mandal.
Mr. Bhabesh Chandra Nandy.
Sri Dhananjoy Roy.
Seth Sukhdev.

NOES—33.

Mr. Abdulla al-Mahmood.
Mr. Abdul Monem Khan.
Mr. Abul Kasem Khan.
Mr. Asadullah.
Chowdhury Zahiruddin Moazzem
Hussein (Lalmia).
Moulavi Ebrahim Khan.
Mr. Ghyasuddin Pathan.
The Hon'ble Khan Abdul Qaiyum
Khan.
Begum Shaista Suhrawardy
Ikramullah.
The Hon'ble Mr. Mafizuddin Ahmad.
Mr. Mohd. Abul Quasem.
Khawaja Nazimuddin.
Mr. Nur Ahmed.
Nawab Khwaja Habibullah.
Mr. Shahoodul Huque.
Sved A. B. M. Husain.
Mr. Wahiduzzaman.
Sardar Amir Azam Khan.

Khan Iftikhar Husain Khan of
Mamdot.
Sved Khalil-ur-Rehman.
The Hon'ble Mr. Mohamed Ali.
The Hon'ble Mr. Mushtaq Ahmad
Gurmani.
Sardar Abdur Rab Khan Nishtar.
The Hon'ble Malik Md. Firoz Khan
Noon.
H. E. Dr. Omar Hayat Malik.
Sardar Shaukat Hyat Khan.
The Hon'ble Mr. Shuaib Qureshi.
Sardar Asadullah Jan Khan.
The Hon'ble Khan Sardar Bahadur
Khan.
Mr. Ahmad Ebrahim Haroon Jaffer.
The Hon'ble Mr. A. K. Brohi.
Mr. M. H. Kizilbash.
Jam Sahib Mir Ghulam Qadir Khan
of Las Bela.

The motion was negatived.

Mr. President: I am putting to vote the next one. The question is :

"That to paragraph 3, the following be added at the end :—

'as agreed upon by all sects of Muslims or is contradictory to the commitments that may have been made to the Minorities.'"

The amendment was negatived.

Mr. President: Next one. The question is :

"That to paragraph 3, the following proviso be added :—

'Provided that the provisions of this paragraph will not affect any personal law applicable to any non-Muslim community and any vested right or interest.'"

The House then divided.

AYES—12.

Mr. Prem Hari Barma.
Prof. Raj Kumar Chakraverty.
Shri Sris Chandra Chattopadhyaya.
Mr. Akshay Kumar Das.
Shri Dharendra Nath Datta.
Mr. Bhupendra Kumar Datta.

Shri Kamini Kumar Datta.
Mr. Janendra Chandra Majumdar.
Mr. Birat Chandra Mandal.
Mr. Bhabesh Chandra Nandy.
Sri Dhananjoy Roy.
Seth Sukhdev.

NOES—34.

Mr. Abdulla al-Mahmood.
Mr. Abdul Monem Khan.
Mr. Abul Kasem Khan.
Maulana Md. Akram Khan.
Mr. Asadullah.
Chowdhury Zahiruddin Moazzem
Hussein (Lalmia).
Moulavi Ebrahim Khan.
Mr. Ghyasuddin Pathan.
The Hon'ble Khan Abdul Qaiyum
Khan.
Begum Shaista Suhrawardy
Ikramullah.
The Hon'ble Mr. Mafizuddin Ahmad.
Mr. Mohd. Abul Quasem.
Khwaja Nazimuddin.
Mr. Nur Ahmed.
Nawab Khwaja Habibullah.
Mr. Shahoodul Huque.
Syed A. B. M. Husain.
Mr. Wahiduzzaman.

Sardar Amir Azam Khan.
Khan Iftikhar Husain Khan of
Mamdot.
Syed Khalil-ur-Rehman.
The Hon'ble Mr. Mohamed Ali.
The Hon'ble Mr. Mushtaq Ahmad
Gurmani.
Sardar Abdur Rab Khan Nishtar.
The Hon'ble Malik Md. Firoz Khan
Noon.
H. E. Dr. Omar Hayat Malik.
Sardar Shaukat Hyat Khan.
The Hon'ble Mr. Shuaib Qureshi.
Sardar Asadullah Jan Khan.
The Hon'ble Khan Sardar Bahadur
Khan.
Mr. Ahmad Ebrahim Haroon Jaffer.
The Hon'ble Mr. A. K. Brohi.
Mr. M. H. Kizilbash.
Jam Sahib Mir Ghulam Qadir Khan
of Las Bela.

The motion was negatived.

Mr. President: I am putting the next item. The question is :

"That to paragraph 3, the following proviso be added :—

'Provided that the provisions of this paragraph shall not apply to any personal law of the non-Muslims or to any law exclusively relating to non-Muslims.'"

The Members may please rise in their seats.

(Mr. President then counted Ayes 12 and Noes 26.)

Mr. President: Noes have it. The amendment is lost.

The amendment was negatived.

Mr. President: The question is :

"That paragraph 3 be adopted."

Members may please stand in their seats.

(Mr. President then counted Ayes 34 and Noes 12.)

Mr. President: Ayes have it.

The motion was adopted.

Mr. President: The House stands adjourned till 6 p. m. today.*

The Assembly then adjourned till Six of the Clock, in the evening.

* After the adjournment of the House, Mr. President, upon representation from some Honourable Members, cancelled the meeting fixed for Six of the Clock, in the Evening, and by a circular letter directed that the Constituent Assembly should meet at Ten of the Clock, in the Morning, on Saturday, the 31st October, 1953.—*Ed. of Deb.*