

NAGPUR :
The 18th October 1948.

FROM

THE HONOURABLE SHRI G. S. GUPTA,
SPEAKER, CENTRAL PROVINCES AND BERAR
LEGISLATIVE ASSEMBLY, NAGPUR.

TO

ALL MEMBERS OF THE CONSTITUENT ASSEMBLY
OF INDIA.

DEAR SIR,

I beg to forward herewith for your consideration the views of the Central Provinces and Berar Legislative Assembly on the Draft Constitution of India as recorded by the Committee of the House. I have no doubt you will please give consideration to our views.

Yours sincerely,

G. S. GUPTA.

REPORT OF THE COMMITTEE APPOINTED TO CONSIDER THE DRAFT CONSTITUTION OF INDIA

[Appointed by the Legislative Assembly, Central Provinces and Berar]

1. Preliminary.—The Central Provinces and Berar Legislative Assembly by their resolution passed on the 14th September, 1948, resolved as follows :—

“WHEREAS it is desirable that this House should express its opinion on the very important question of the Constitution of Free India now before the Constituent Assembly;

AND WHEREAS this purpose would be served better through a small committee of this House;

NOW, THEREFORE, this House resolves that a committee of the following members under the chairmanship of the Honourable the Speaker be formed with authority to formulate its opinion and to communicate the same to the Honourable the President of the Constituent Assembly :—

MEMBERS

- (1) Honourable Pandit Ravi Shanker Shukla.
- (2) Honourable Shri D. K. Mehta.
- (3) Honourable Shri P. K. Deshmukh
- (4) Shrimati Vimalabai Deshpande
- (5) Beohar Rajendra Sinha.
- (6) Shri R. A. Belsare.
- (7) Pandit Kunjilal Dube.
- (8) Shri Abdul Razzak Khan.
- (9) Thakur Chhedilal.
- (10) Shri S. V. Sonavane.”

By virtue of this authority we met and considered the Draft Constitution of India and have to record our opinion as follows :—

We would not touch the question affecting the actual wording of the Draft but would deal with the major questions affecting the Constitution.

2. Preamble.—In place of the words “SOVEREIGN DEMOCRATIC REPUBLIC” occurring in the preamble of the Draft Constitution, we would like the words “SOVEREIGN INDEPENDENT DEMOCRATIC STATE” as used in the Irish Constitution. Although the words “Sovereign” and “Independent” convey overlapping ideas, we would prefer the use of both the words for proper emphasis. The phraseology suggested by us has one more advantage, *i.e.*, it leaves open the question of our relations with England which we can adjust as would suit our interests best. Preamble.

3. Structure of the Central Government.—We are of the opinion that our Central Government must be very strong. *India should not only be one nation but also one State.* It should be the repository of the sovereignty of the people. In that view we would like its constituent units to be called “Pradesh” (provinces) rather than “States”. The word “States” has got certain association and meaning attached to it by history and tradition. This meaning is based on the concept that the units are Articles
1 & 2.

sovereign or semi-sovereign bodies loosely attached together into a federation. We want to avoid that idea and any future complication arising out of this. So far as the existing Provinces are concerned, there is no difficulty. Even what were called Native States are being rapidly democratised and are falling in line with the Provinces. There should not, therefore, be much difficulty in calling them also as "Pradesh". In fact, some of them have actually adopted that word, for instance, "Vindhya Pradesh", "Himachal Pradesh", etc.

Articles
43 & 131.

4. Election of the President and the Governor.—We are in agreement with the method of election of the President as given in the Draft Constitution (Article 43) and are not in favour of the President being elected by adult suffrage of the whole population. As regards the appointment of Governor (Article 131), we think that the second alternative is decidedly better than the first; but we would go a step further and would recommend that the President of the Indian Union should appoint the Governor without having a panel from the Legislatures of the various units.

The Governor would be a constitutional Governor acting implicitly on the advice of his Ministers, except in grave emergencies. Thus, when he is acting in a normal period, he would not deal independently with any single file of the Government; and when he acts in a grave emergency, he acts entirely under the supervision and control of the President. In the circumstances, there is no point in compelling a Governor to contest an election. In what way is he to differentiate his responsibility to his electorates from the responsibilities of his Ministers and the responsibility of the Provincial Legislature to their electorates? It may be noted that although the Governor may be elected by a direct vote by the whole Province there is no inter-relation between the responsibility of the various authorities—Governor, Council of Ministers and the Legislature—to their electorates. A grave anomaly can arise if by the whim of the ballot box the elected Governor belongs to the minority party in the Legislature.

Articles
143, 144,
153 & 175.

5. Discretionary powers of the Governor.—We have recommended that the Governors should not be elected, but should be appointed by the President. In that view we think that there is no point in leaving any matters to the discretion of the Governor. We are of the opinion that the Draft should be amended omitting all references to "discretion" wherever they occur excepting Article 188.

Article 141.

6. This article conflicts with sections 401 and 402 of the Criminal Procedure Code when it empowers the Governor to do the very acts which the Provincial Government is authorised by the sections to do. Under Article 130, the executive power of the State vests in the Governor and read with Article 143 (1) he represents the Government itself. There is, therefore, no point in empowering the Governor as such with what is already given to him under the Criminal Procedure Code. Further, Article 141 restricts the Governor's powers to offenders against laws of the State only while sections 401 and 402 of the Criminal Procedure Code give full power to the Government with respect to all crimes in relation to Central as well as provincial subjects. We suggest that there should be no such restriction to its power.

Article
144.

7. We think that Article 144 (1) should be drafted on the model of Article 62. The principle of collective responsibility of the State Ministers should find place in the Article itself.

8. With reference to Articles 84 and 168 of the Draft Constitution which prescribe penalty for a disqualified member sitting or voting in the House of a Legislature, there seems to be a lacuna, as there was in the previous Act of 1935 also as to the authority which should determine that the disqualification has been incurred. A case arose in our province in which much argument was advanced and it was doubted whether the Speaker or the Governor or the High Court was the proper authority to determine the disqualification of member. We suggest that some provision in which the House itself may be able to assert its right through the Speaker may be made. Articles
84 & 168.

9. State of Emergency.—We are in entire agreement that in case of emergency the President and the Governor of the provinces should have power to promulgate ordinances and in case of grave emergency to suspend some of the provisions of the Constitution. Articles
188 & 278.

10. Administration of Justice.—We are of the opinion that the judiciary should be independent of the executive and, therefore, agree that the President of the Union should, with the consultation of the Chief Justice of India, appoint the Judges of High Court. The District and Sessions Judges should be appointed by the High Courts concerned. Article
193.

11. In Article 196, we would suggest that a person who has held an office of the Judge of a High Court shall not be debarred from practising anywhere except in the area within the jurisdiction of the High Court in which he acted as a Judge. Article
196.

12. Articles 212 and 213 will need recasting and change in view of the merger of various States with the provinces and also on account of formation of the unions of States. We are sure that such changes as will be deemed necessary will be made therein. Articles
212 & 213.

13. We are of the opinion that all duties of excise should be transferred to the Provincial List or the proceeds of Central excise from a province should be earmarked for the province instead of only the excises on medicinal and toilet preparations. If the first alternative is not accepted, *viz.*, the transfer of all duties of excise to the Provincial List, we suggest that the words "on medicinal and toilet preparations" in sub-clause (1) of Article 249 should be deleted. Article
249.

14. As to the estate and succession duties on agricultural land, there should be a provision in the Constitution for the levy of such duties by the Centre so as to ensure uniformity and facilitate administrative convenience. We suggest that the words "other than agricultural land" in clauses (a) and (b) of sub-clause (1) of Article 250 be omitted. If this suggestion is not approved of, it would be necessary to define the expression "agricultural land" in Article 303 so as to place its meaning beyond doubt. Article
250.

If the amendment of Article 249 (1) as suggested above and the amendment of sub-clause (4) (a) of Article 251 as suggested below are accepted, a provision may be made for the division of the net proceeds of the estates and succession duties between the Centre and the States in such proportion as may be fixed. Clause (d) of Article 250 (1) may also be deleted in the event of Article 249 (1) being amended as suggested.

15. The words "other than agricultural income" in Article 251, sub-clause (1), be deleted for the reason explained above. Article
251.

We have given anxious consideration to the question of percentage of proceeds of the taxes to be allocated to the provinces. We are of the opinion that the scheme for allocation and distribution of revenue between the Union and the State as proposed in the Draft Constitution is defective.

We, therefore, suggest that the finances of the provinces should be placed beyond the pale of controversy and taken out of the uncertainties of the vote of Dominion Parliament and that the share of the income-tax should be determined by a statutory provision instead of being made to be paid from year to year on the consent and sanction of the Centre, and the Constitution should *inter alia* prescribe the percentage of the net proceeds of income-tax, including corporation tax, which should go to the provinces. This should be done at least for the first five years so that the provinces could have a certain measure of certainty in the revenue to be allocated to them and they would thus be in a better position to plan their budgets accordingly. If this is accepted, clause (i) of sub-clause (4) (b) will have to be deleted as unnecessary. We recommend that "taxes on income" should include corporation tax. Hence it is suggested that the words "but does not include corporation tax" be omitted from sub-clause (4) (a) of Article 251.

Article 253. 16. We do not see the propriety of retaining such a prohibition in the Constitution. In view of what has been said about Article 249 above, sub-clause (2) of this Article may be deleted.

Articles 254 & 255. 17. We are of the view that so far as the allocation of financial resources is concerned, there should be a constitutional guarantee of treatment on uniform principles of all provinces, making provision for a grant-in-aid for needy provinces. This amount may be determined by the President on the basis of an *ad hoc* enquiry for the first five years and on the recommendation of the Finance Commission. If our suggestion is accepted, Article 254 will have to be deleted and Article 255 will have to be amended accordingly.

Articles 264 & 266. 18. We are of the opinion that the differential treatment of the Union and the provinces in regard to provincial and Union taxation does not seem to be fair. There should be strict reciprocity in this matter. If it is not possible to give strict reciprocity, we would suggest that reciprocity to the extent provided in the existing Constitution Act should be retained and any concessions beyond this to the Central Government would be unfair to the provinces. Article 265 should be deleted and Articles 264 and 266 amended suitably.

Part XIV 19. As regards reservation of seats on communal grounds, we are definitely of opinion that this must cease. All sorts of communal representation must go. We can understand reservation on the ground of backwardness and that too for a limited period. There is no doubt that the really backward castes and tribes and tracts should be protected and should have reserved representation. However, the list of Scheduled Castes requires careful revision and we think that those that are really backward should be included in it and those that are not backward should be excluded from it.

First Schedule. 20. Name of our province.—*In Part I of the First Schedule, our province has been called "Central Provinces and Berar". We are of the opinion that the name of our province should be "Madhyapradesh". The name of Berar was associated with our province and kept as such because of the history of its association with the Nizam. This is no longer necessary. Berar will continue as a division of Madhyapradesh like any other division in the province.

21. There is no clause in the Draft Constitution corresponding to section 296 of the Government of India Act, 1935. Such a clause is desirable.

* One member dissenting.

GENERAL

22. The question of language at the Centre.—We are of the opinion that the official language of the Union should be Hindi written in Deonagri script. During the transitional period English may remain an optional language. Our views on this important question are given in some detail in the Appendix attached.

23. For Central Services knowledge of Hindi and one other language to be compulsory.—In connection with this question of language we would suggest that knowledge of Hindi must be compulsory for a non-Hindi boy entering Central Services. Similarly we would suggest that for a Hindi boy knowledge of one other language recognised as an official language by a constituent unit (province or State) should be made compulsory. This will give equal advantages and disadvantages to a Hindi and non-Hindi boy and much of the controversy centering round this question will disappear.

24. The Constitution of Free India should be framed in Hindi.—No free country in the world has framed its Constitution only in a foreign tongue. We very strongly recommend that the Constitution of Free India be framed in Hindi. We have already given in the Appendix our reasons for adopting Hindi as the official language of the Union. It is but mete that the Constitution should be in the official language.

25. National Flag.—We consider that the Constitution should contain a provision about the National Flag as has been done in the Irish Constitution and recommend accordingly.

G. S. GUPTA,
Speaker
(Chairman of the Committee).

APPENDIX

The Question of Language at the Centre

1. There seems to be no difference of opinion that English has to go from the affairs of State both in the provinces as well as in the Centre. When will that be is a matter on which we would not like to say much. A period of five years as the period of grace would, in our opinion, be quite sufficient.

In the provinces the language would naturally be their own and would be fixed by their respective Legislatures.

2. In the Centre the question must be viewed purely from the national stand-point, *i.e.* in a manner that would secure the greatest common measure between the languages of the Dominion of India.

The problem of language resolves itself into the following three parts :—

- (i) Script.
- (ii) Grammatical structure.
- (iii) Vocabulary.

3. As to No. (i) the following are the scripts of the various States and provinces of India :—

<i>Script</i>	<i>States and Provinces</i>
(1) Deonagri	.. East Punjab. Himachal Pradesh. Matsya Union. United Provinces. Bihar. Central Provinces and Berar. Vindhya Pradesh. Malwa Union. Rajasthan. Bombay Presidency (Marathi area). Baroda. Hyderabad (Marathi area).
(2) Gurumukhi	.. East Punjab. East Punjab States.
(3) Assamese	.. Assam.
(4) Bengali	.. West Bengal.
(5) Udiya	.. Orissa.
(6) Gujrati	.. Bombay Presidency (Gujrati Area). Saurashtra Union.
(7) Telgu	.. Madras Presidency (Andhra Area).
(8) Tamil	.. Madras Presidency (Tamil Nad Area).
(9) Malyalam	.. Madras Presidency (Keral Area). Cochin and Travancore States.
(10) Kannada	.. Bombay Presidency (Karnatak Area). Mysore State.

The figures collected at the 1931 Census show that about 50 per cent of the population of the Indian Dominion use Deonagri script (what is called Balbodh in Marathi).

Deonagri being the major script of Sanskrit is studied by students of Sanskrit language in all the Universities of India. In the University of Calcutta Sanskrit is a compulsory subject for Matriculation. Deonagri script is therefore studied there by every one of the 30,000 students annually.

Deonagri is the sister script of all these scripts, the mother being Brahmi of the Ashokan days. Being sister scripts, the number and arrangement of sounds in their alphabets are almost the same. Even the written forms have similarities. Deonagri script can, therefore, be learnt without much effort by any one who knows his script. Persian script has absolutely no affinity with any of these scripts and can stand no comparison with them in their scientific arrangement and phonetic values. It will not, therefore, be at all suitable as a Federal script even as an alternative.

A Committee was appointed by the Ministry of Education, Government of India, under the Chairmanship of Dr. Tarachand, Educational Adviser to the Government of India, consisting of the Vice-Chancellors of all the Universities and a few specialists like Sir Shanti Swaroop Bhatnagar and Professor Humayun Kabir. This Committee while discussing the question of script resolved as follows :—

“It was resolved that Devanagri should be the script of the Federal language but for regional languages the script will be the regional script or Devanagri as the region may choose.”

An amendment “proposed that the Roman script may be an alternative for the Federal and regional languages” was lost.

4. Coming to the grammatical structure, there is no dispute about the acceptance of the grammatical structure of *Khadi Boli* or Western Hindi as the basis of the language of the Centre. This grammatical structure is intelligible over the widest area in India.

5. Now we come to the crux of the problem namely vocabulary. For clarity we shall divide vocabulary into two parts :—

- (i) basic and
- (ii) learned.

The basic vocabulary consists of a few thousand words most of which are तद्भव (words that have been derived from Sanskrit as करम from कर्म and have cognates in the languages of North India and of Singhalese in Ceylon. For example होना, जाना, करना, प्रागे, पीछे, एक, दो, तीन, सौ, बाप, भाई. These words are also common to Urdu. There is no dispute about them.

6. Now we come to learned vocabulary, the volume of which is vast beyond the conception of ordinary man. This vocabulary has to be highly accurate, elaborate and sensitive. Finest distinctions of nuance and legalistic turns have to be provided for. Without that it would not be possible to make laws, draft constitutions and carry on administration in our language. For this we must have an unfailing source. This source should be common to Hindi and other languages of India, so that our learned terms be the same for every province and State. This is the dictate of our vital national interest. Any other scheme is bound to bring disruption. To give

an example, if we were to use, "हस्त दवाम बउबूरे दयाय शोर" (*habs davam baubure daryaya shore*) for "transportation for life" in the Centre and "य.वज्जीवन द्वीपतर-प्रेरण" (*yavajjivan dviptantar preran*) in Bengal there would be chaos. It is well known that there is a vast field over which both the Centre and the various units can legislate. This is given in the concurrent list.

7. This source through centuries has been and can be only Sanskrit. The alternative of Arabic and Persian can serve only Urdu and no other language. It may not be out of place to point out that Urdu is no more the recognised language of any province in India.

8. Hindustani is used as a generic word, for the two languages, i.e., Hindi and Urdu. Hindustani by itself is no language. This is recognised in Rule 23 of the Rules of Procedure of the Constituent Assembly. At best Hindustani aims at a common vocabulary for Hindi and Urdu but disregards the needs of all other languages of India as it seeks to import learned words also from Arabic and Persian. This Hindustani cannot but impose the heavy burden of knowing not only both Hindi and Urdu words but also their grammars, particularly in the matter of formation of words and phrases. The one follows Sanskrit and the other Arabic and Persian. To give an example the words विद्या (*vidya*) and अर्थ (*arth*) make विद्यार्थी (*vidyarthi*) for a "student" but Urdu does not make it इल्मे-तालिब (*ilmetalib*) with those very corresponding words of इल्म (*ilm*) and तालिब (*talib*) but it makes तालिबे-इल्म (*talibeilm*). After the fashion of तालिबे-इल्म (*talibeilm*) our अर्थ-विद्या (*arth vidya*) would mean quite a different thing. Then again even with all the heavy burden of knowing two sets of words and their grammars it will fail at crucial moments. To give only one example, take the word समाजी (*samaji*) used in the translation of the Draft Constitution of India. The question is, will it be a noun like प्रार्थी (*prarthi*) or will it be an adjective like सियासी (*siyasi*) for our Hindustani makes use of both the grammars. Thus it is clear that Hindustani cannot serve even Hindi and Urdu beyond the circle of common parlance. As a vehicle of learned thought it is non-existent.

9. Learned words based upon तद्भव (*tadbhava*) words current in a particular region will serve only that region and cannot be universal.

It will be confusing as it would mean one thing in one place and another thing in another place.

Then again, it would not be possible to frame proper derivatives and compounds from such words.

10. In the ultimate analysis, the question of language at the Centre, i.e., the question of Hindi or Hindustani, is really a question of vocabulary, a choice between Hindi and Urdu technical words or really a choice between Sanskrit words and Arabic and Persian words. There is absolutely no reason in favour of the latter. The highest dictates of nationalism require that our terms of any technical value must be based on Sanskrit. This way lies the linguistic unity of India. The only natural basis for our terms common to all (or at any rate to most) to Bengali, to Marathi and to others can be only Sanskrit.