PART II
Beard's Methodology.

Did the Constituent Assembly of India have a mind of its own? Before answering this question it will be convenient to refer to the methodology that Charles A. Beard (1) adopted in analysing the economic background of the Constitution of the United States.

Beard has taken great pain to examine the property background of every delegate of the Philadelphia Constitutional Convention as well as the general economic situation in 1787. While some of the conclusions of Beard have proved controversial, his methodology has proved to be of lasting value.(2).

Property, as will be amply seen, played a significant role in the making of the Indian Constitution. In fact, writing in the early fifties, in the UNESCO Survey of Methods, Research and Teaching of Contemporary Political Science, A. Appadorai mentioned among the subjects requiring priority in "investigation by

(1) Charles A. Beard: An Economic Interpretation of the constitution of the United States of America (1913).
(2) T. I. Cook in contemporary Political Science: UNESCO Survey of Methods, Research & Teaching (1953), p. 79.
by competent political scientists in India" "the influence of property upon government"(3).

Yet, Beard himself, in the Introduction to the 1935 addition of his book admits: "Seldom, if ever, is there total class solidarity in historical conflicts" (3A) and warning against sweeping generalisations about the States General of France (1789) Gaetano Salvemini writes in his great work on the French Revolution:

"The trouble begins when we come to regard the Revolution as an historical force in itself. For instance, it is a fact that both Constituent and Legislative Assemblies and the convention were largely composed of lawyers, and that very few of the industrialists, tradesmen, bankers and other men of affairs who really formed the bourgeoisie were elected to it. Such citizens as these have their own business to attend to and find little time for politics; lawyers, on the other hand, besides being facile speakers - a great asset in public life - find in politics an excellent way of making a name for themselves

(3) Appadorai, in Ibid, p.46.
(3A) beard : of. elit, f. xv.
and of increasing the scope and gains of their callings.

For this reason the electors of the revolutionary period usually had a choice of various candidates belonging to the legal profession, but were rarely free to choose between a lawyer and, for instance, an engineer.

"This circumstance, though not unusual in modern representative assemblies, was of considerable importance during the French Revolution; for it meant that the policy of these bodies, in emanating not from the bourgeoisie proper, but from its legal experts, was not always in conformity with the interests of the economically dominant class: being, in fact an outcome of moral and intellectual habits of mind different from and even at times opposed to theirs. This explains certain ultra-democratic measures of the Constituent and Legislative Assemblies that would never have been passed by a chamber of bankers and industrialists." (4).

It is on the application of the principle, therefore, that the controversy rests. Besides, in this case, there is the almost insurmountable difficulty of inadequacy of data. There was an unsuccessful attempt to prepare a Who's WHO of the Constituent Assembly members. At present

(4) Gaetano Salvemini: The French Revolution (1938), P.327.
At present there are no means to get authentic reports about the economic background of individual members. Certain basic facts about the Assembly, however, are sufficiently revealing.

Composition of the Constituent Assembly: Predominance of Congress:

The Constituent Assembly was partly elected by the popularly elected Provincial Legislatures and partly filled by representatives of the States, about one half of whom were the Rulers' nominees and the rest elected through a greatly restricted franchise. Everywhere popular franchise was limited by property qualifications.

The most important difference between the Indian Constituent Assembly and the Philadelphia Convention or the States General of France (1789) constituted by the fact that the American as well as the French politics towards the end of the eighteenth century was articulate only in a general way. In India, on the other hand, a much stronger political factor had emerged by the time the Constituent assembly was convened. That was the party system.
It is in and through the political parties that the socio-economic forces in India had crystallized. A proper characterisation of the Indian Constituent Assembly, therefore, can be made not by any mechanical enquiry of the individual property background of the members, but by an objective study of the concerted growth of social, economic and political forces in this country.

Membership of the Constituent Assembly, according to K. M. Munshi, fell into four groups:

1) The representatives of the Congress.

2) A few independent members elected with Congress tickets.

3) Independents representing non-congress provincial legislators.

4) The Muslim Leaguers who had chosen to stay in India.

As already noted, among the British Indian representatives, the Congress enjoyed an overwhelming majority. To them were added the elected representatives of the States, sponsored by the States' People's Conference, a sister organisation of the Congress. This fact gave the Constituent Assembly a harmony which was unique in nature.
At the conclusion of the debate on the Draft Constitution, B.R. Ambedkar, himself a non-Congressite, openly recognised the role of the Congress Party, which eminently dominated the Constituent Assembly, in the following way:

"The task of the Constituent Assembly would have been a very difficult one if this Constituent Assembly had been merely a motley crowd, a tessellated pavement without cement, a black-stone here and a white-stone there in which each member or each group was a law into itself. There would have been nothing but chaos. This possibility of chaos was reduced to nil by the existence of the Congress party inside the Assembly which brought into its proceedings a sense of order and discipline. It is because of the discipline of the Congress Party that the Drafting Committee was able to pilot the constitution in the Assembly with the sure knowledge as to the fate of each article and each amendment. The Congress Party is, therefore, entitled to all the credit, for the smooth sailing of the Draft Constitution in the Assembly" (6)

Immediately after partition, however, the Congress leadership was eager to get the co-operation of the other parties in the framing of the Constitution and working of the government. So it offered tickets to non-Congressites. Several other parties had powerful lobbies in the Congress. Recruitment to the Cabinet was made from outside the Congress periphery. Sanmukham Chetty, John Mathai, Shyama Prosad Mukherjee and B. R. Ambedkar were such outsiders. B. R. Ambedkar joined the Cabinet as the Law Minister in the midst of Constitution-making and was made the Chairman of the Drafting Committee. Ambedkar made substantial personal contribution to the framing of the Constitution. Other political opinions were respectfully heard, though the Constitution was framed mainly on the basis of Congress political ideals.

Munshi claims that among the members of the Constituent Assembly "there was no difference in general outlook. "There were no clear-cut opposition parties". Also, "The composition of the Constituent Assembly as also the atmosphere in which the problems were discussed formed themselves..."
to a broad anti-authoritarian outlook" (7).

Realisation of the long awaited freedom gave the Congress leadership a feeling of satisfaction, which inevitably imparted in them a liberally tolerant attitude towards opposing political thinkings. It is, however necessary to qualify the statement. As the trend of discussion will amply show, there was a wide desire to accommodate opposite view-points; there was, in any case hardly any concession on fundamentals. There was practically no concession to the League and Sikh demands of a loose federation or to the socialistic demand for declaring India a "Socialist Republic."

In some controversial issues the leadership had indeed to resort to 'whips' (8).

Leadership of the Assembly.

Through its militant past Congress had achieved a substantial amount of discipline and partly because the

(8) K.V. Rao, in his Parliamentary Democracy in India alleges that the use of whips on the Constituent Assembly members by the Congress Party was frequent. Munshi writes that the use of whips was rare. Austin's assessment is lying midway between the two. See his "The Indian Constn.: Cornerstone of a Nation", pp. 315-16.
the bulk of its followers in the Constituent Assembly chose just to follow the leadership, in most of the cases of complication in the Constitution-making task. Of the leadership there were two clear grades, the leaders like Nehru and Patel (the latter taking more minute interest in the job than the former), were at the apex of the whole pyramid. Granville Austin actually calls the Nehru-Patel-Azad-Prasad leadership "the oligarely". The term may appear controversial to many, but of the strength of this leadership, there need be no doubt in any mind. Next to them the leadership-grade was constituted by the Cabinet-ministers and important persons like K. M. Munshi, Pattabhi Sitaramayya, J. B. Kripalani, C. Rajagopalachari and a number of Provincial Prime Ministers. On the fringe of this leadership there was still another group of members like Thakurdas Bhargava, A. V. Thakkar, Sri Prakash, B. M. Gupta and Brajeswar Prosad.

Outside the Party's pale the Constituent Assembly contained a number of brilliant minds, some of them lawyers of exceptional ability. In this group, the
oligarathy consisted of Alladi Krishna Ayyar, N. Gopalaswami Ayyanagar and B.R. Ambedkar. People like K.M. Panikkar, S.P. Mukherjee and, in the early days, B.L. Mitter, constituted the second grade of this leadership. Standing mid-way between the two groups were those, whose association with the party was not long, but whose sheer brilliance made them respectfully heard. Such were the people like K. Santhanam and T.T. Krishnamachari. The latter, a strong critic of certain aspects of the Draft Constitution, was actually drafted into the Drafting Committee in late 1948.

Composition and Role of the Opposition.

Opposition there certainly was, quite vocal, but ineffective. The most important single reason of their ineffectiveness was indeed the task of a common perspective. The opposition consisted of the Muslim League, the Akali Sikhs, the two or three Congress Socialists and the two Forward Blocists(9).

(9) Besides Damodar Swarup Seth and Phulan Prosad Verma, Sarangadhar Das, representing the Orissa States Group, possibly was a Congress Socialist.

H.V. Kamath and Viswambhar Dayal Tripathy belonged to the Forward Bloc.
The Constituent Assembly of course, did not recognise party-divisions and an extra-ordinary attitude of the Constituent Assembly was revealed by the election of Sahullah to the Drafting Committee. 'Officially' the Congress Socialists and the Forward Bloc had no representation in the Constituent Assembly. Except in the first three sessions, the Constituent Assembly had no communist. (In the first two sessions Somnath Lahiri was the only Communist member). Some of the Liberals were so closely connected with Constitution-making that they could hardly be counted in the opposition.

There were, of course, many 'critics' within the party. They ranged from a rabid Hindi- Supporter to a secular-socialist from a strong advocate of a Presidential system to a convinced Parliamentarian, from a protagonist of a highly centralised state to a protagonist of loose federalism. The always-in-the-opposition persons were hardly heard. On several occasions, however, the leadership wanted to understand them or even accommodate them.

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(9A) Some members of this group actually set up a Social Democratic Party to work in the Constituent Assembly (Legislative) from November 21, 1949. The decision was taken by 12 members of the Assembly, including K.T. Shah on August 26, 1949. vide The Statesman, August 27, 1949.
especially when questions of minor adjustment were involved. A few important names in this group were H.N. Kunzru, K.T. Shah, Shibbanlal Sakeena, and M.R. Jayakar.

The fundamental opposition approach was two-fold. It was mainly from the Non-Congress opposition that the demand for greater provincial autonomy and statutory provision for minority rights were advanced (The Muslim League and the Akali Party were the vanguards of this move). It was mainly from the Congress opposition that the demand for greater Socialist bias of the Constitution did come. On none of these demands there is any evidence of substantial concession. The second demand, however, crossed the first. There were ardent supporters of socialism in the Congress (equally among the secular and parochial elements) as well as in the League. On details, differences within the party, even involving leading persons, were occasionally exposed. But such differences were often solved through discussions and persuasions, and, sometimes, by the use of 'whip'.

K.V. Rao's contention that the Constitution contains no trace of any contribution by 'others' (10) is certainly

(10) Parliamentary Democracy in India, P. 21.
rash. In fact, to any general observer, it may be difficult to identify an exclusively Congress-ideal about the Constitution. The Nehru Report was an "all-party" document and has several marks of compromise. The share of Congress in the Sapru Report was insignificant. Congress, of its own, never formulated a model Constitution for the country. On the other hand, 14 out of less than 30 members of the Sapru committee held membership of the Constituent Assembly for the full or a part of the period of its duration, and a few others were directly or indirectly associated with the work of the Assembly (11). Tejbahadur Sapru, himself, was a chief adviser to the Assembly, from his sick-bed in Allahabad. N.G. Ayyanagar became a keyman of the whole job.

Ideologies

But Congress had its ideas about the Constitution in common with most other sections of Indian opinion. The most fundamental of them were (1) a parliamentary Government, (2) a centralised but diversified Federal State and (3) a dynamic social order, whose connotation varied from man to man.

(11) The following members of the Constituent Assembly had been associated with the Sapru Committee:
Because of her organisational peculiarity, again, Congress could not have an agreed and precise definition of these ideas from her own point of view.

Within the Congress and outside, from the point of historical experience in the field, two broad groups could be identified: The liberal leadership, whose outlook was very much similar to that of the 18th and 19th centuries Europe, was balanced by the weighty, conservative but constructive leadership which had had the experience of administration since 1937, consisting of provincial premiers (who were frequently consulted, though all of them were not members of the Constituent Assembly) and administrators. In the top leadership Nehru emotionally belonged to the former, Patel to the latter. The highly competent section of bureaucracy composed of persons like B.N.Rau, S.N.Mukherjee and H.V.R.Iengan, who were associated with Constitution-making, were close to the latter group:

The differences were less on purpose than on technique:


Some other members of the Sapru Committee served in the Committees of the Assembly besides N.R.Sarkar (Financial Experts Committee).
which had indeed to be determined by each group's separate experience and outlook. The statement was true about the wide national arena of politics, where the only incoherent forces of rather insignificant dimension were the Muslim league and the Communist Party. The Muslim league was present in the Assembly because of separate electorates; there was no communist, after July, 1947, in the Assembly.

There was another group of people, the lawyers, whose role was more important than identifiable. There were lawyers on both the wings. Nehru, Patel, Rajendra Prasad, Kushi were all lawyers. B.N. Rau was a master of law. At the same time, in between the "political" and "administrative" camps, a group of lawyers, like A.K. Ayyar, N.G. Ayyanagar, B.R. Ambedkar, B.L. Mitter (for some time), played vital roles in evolving formulae acceptable to both.

The above approach is unavoidably leadership-oriented. For, if the constitutional picture of India was vague to the leadership, the common cadres were still less aware of the dimension of their task. Though the average intellectual level of the Assembly members was fairly high, the
drafting of the Indian Constitution turned out to be one of the most difficult legal exercises of the time. The majority of Constituent Assembly members, as a result, chose to delegate the responsibility of detailed thinking to the leadership.

On July 11, 1946, Nehru, as the Congress President appointed, according to the Working Committee Decision, an Expert Committee to prepare the material and draft proposals for the Constituent Assembly. The Committee consisted of Nehru, Asaf Ali, K.M.Munshi, K. T. Shah, K. Santhanam (Assembly members), Humayun Kabir and D.R.Gadgil. It had a few sittings at the early stage (July and August, 1946) and scrutinised the Objectives Resolution as framed by Nehru. Later, the initiative passed on to the Constitutional Adviser, B.N. Rau, who supplied the basic material to almost all the Committees of the Constituent Assembly.

Foundations of the Constitution.

In the reports of the various Committees that were to serve as the foundations of the Draft Constitution of India after appropriate discussion and approval in the Assembly, the most outstanding influence that is perceptible is that of the Government of India Act, 1935 with its 321 articles and 10 Schedules.
In the three volumes on Constitutional Precedent prepared by Rau, however, there were extensive comparative studies of the foreign constitutions, though, here again, with an emphasis on the Dominion constitutions. Actually, the Second Series of "The Constitutional Precedents" gives the salient features of the Statute of Westminster, the constitutions of Canada, Australia, South Africa, Eire, Leeward Islands, the U.S.A., the U.S.S.R., Switzerland, Danzig, Germany (1919), the Chinese Republic and Japan. Yet, at least in some respects, the new Indian Constitution was going to be different from the Act of 1935. For instance, the Act of 1935 did not contain any bill of rights, whereas the Cabinet Mission scheme itself provided for one. The protection of minority and tribal interests, a cornerstone of the Cabinet Mission Scheme, had been left, by the 1935 Act, under the special responsibilities of the Governor General and the Governors. The new scheme required the precise specification of such provisions. India having decided to adopt a republican government, there was need to redefine the positions of the Chief Executives at the Centre and the units along with their discretionary powers and prerogatives. There was also the Congress commitment to linguistic reorganisation of provinces.
A very major issue before the fathers of the Indian Constitution was the establishment of social justice between the various religious and social groups to which the Indian leaders had already been committed. The most complicating situation existed within the Hindu religious institutions, the solution of which had long been overdue. Social problems within the Muslim Community were also grave, but due to several political reasons the fathers of the Indian Constitution could not attack them with the vigour with which they did the Hindu social problems. In fact, the issue of minority rights, quite paradoxically, stood between the Government and social reforms of the minority communities.

But the greatest problem before the Constituent Assembly in the post-partition era was economic in nature. An industrial revolution had already set in this land, producing a consequential class-contradiction. Largely fed by the financial assistance of the propertied classes, the Congress had to meet the demands of private property, paying, at the same time, equal attention to the amelioration of the condition of the poor workers and peasants, which in this under-developed economy had already become
In the three volumes of the "Constitutional Precedents" Rau compiled a large number of foreign constitutions for the benefit of the members. On March 9, 1947, Rau prepared a note for Prasad and Nehru in which he considered the task of constitution-making after February 20, as formidable. His proposal to circulate a questionnaire among the legislators was approved (12). On March, 17, 1947, B.N. Rau issued an elaborate questionnaire to all members of the Central and Provincial legislatures seeking their views on the constitution of future India. Only a few replies poured in. The same questionnaire was issued to the members of the Union and Provincial Constitution Committees on 5.5.47 of the Assembly. The response was equally cool (13). The members of the Committees chose to take the lead from the rather 'independent' memoranda prepared by Rau.

The Committees of the Assembly

The Constituent Assembly appointed a member of committees on procedural and substantive matters. Following is the list of the Committees of the Constituent Assembly.

(12) Law Ministry File.
(13) Union and Provincial Constitution Committees' Files, Indian National Archives.
A. On Procedural Affairs:


B. on Substantive Affairs:

(1) Committee for Negotiating with the States, (2) Advisory Committee (which in turn set up 6 important sub-committees on Minority Rights, Fundamental Rights, North-East Frontier Excluded and Partially Excluded Areas (Assam), North-West Frontier Excluded and Partially Excluded Areas, Excluded And Partially Excluded Areas (outside Assam) (3) Union Powers Committee, (4) Union Constitution Committee, (5) Provincial Constitution Committees, (6) Drafting Committee (7) Expert Committee on Financial Provisions, (8) Committee on the Chief Commissioners Provinces, (9) Special Committee appointed by the President to examine the Draft Constitution, (10) Ad-hoc Committee on National Flag, and (11) Ad-hoc Committee on the Supreme Court.

C. Numerous Sub-Committees and Ad-hoc Committees set up by the different Committees of the House.

D. There were two sittings of the whole House in a
committee to discuss the salaries etc. of the officials of the Constituent Assembly - on 22 January, 1947 and 24 January, 1947. (practically, the House adjourned on 22.1.47 in the committee stage, on 24.1.47, therefore, it reassembled as a committee, and then went into open session). These meetings, like the meetings of other committees were conducted in camera.

Most of these committees were, in fact, working as Standing Committees. The Drafting Committee functioned till the end of Constitution-making. Some of the other Committees used to meet even long after the submission of their reports. For instance, the Advisory Committee was dissolved only on May 11, 1949 after taking some vital decisions about reservation of seats in the legislature for communal minorities.

Of the major Committees The Committee for Negotiation with the States' Rulers (for securing the participation of States in the Assembly) was appointed on December 2, 1947. The Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas was set up by the Constituent Assembly on 24 January, 1947. The Advisory Committee was presided over by Vallabhbhai Patel and was split up into 5 sub-committees with limited power of co-operation from outside the Assembly. These sub-committees were on
which quite a few outsiders worked submitted their reports through the Advisory Committee. The sub-committee on the F.W.P. Tribal Areas indeed became redundant after partition. On January 25, 1947 the Assembly elected the Union Powers Committee. The President of the Constituent Assembly was authorised, on 30 April, 1947, to nominate two Committees to report on a model Union Constitution and a model Provincial Constitution. The Constituent Assembly also directed that in certain matters the provisions contained in the Government of India Act, 1935 would be followed.

The Committee on Union Powers made its first report to the Constituent Assembly on 28 April, 1947. The Committee on the Model Provincial Constitution headed by Patel and the Committee on the Model Union Constitution headed by Nehru reported on 15 and 26 July, 1947 respectively. After the submission of all these reports the Constituent Assembly on August 29, 1947 appointed a Committee "to scrutinise the draft of the text of the Constitution of India prepared by the Constitutional Adviser giving effect to the decisions taken already in the Assembly and including all matters which are ancillary thereto or which have to be provided in such 'Constitution', and to submit to the Assembly for consideration of the Draft Constitution as revised by the committee" (14).

The fifth session of the Constituent Assembly was over on August 30, 1947. On the same day the President was authorised to appoint a committee to recommend constitutional changes in the centrally administered areas. The Assembly next met on January 27, 1948 for a day only to dispose of certain formal matters.

**Drafting of the Constitution**

The members of the Drafting Committee were:-

(1) Alladi Krishnaswami Ayyar, an astute lawyer of liberal views from Madras who came with a Congress ticket and later made outstanding contribution to the constitution-making.

(2) N. Gopalaswami Ayyanger; another brilliant legal brain from Madras, with a liberal outlook, a Congress ticket and a civilian background.

(3) B. R. Ambedkar, the leader of the Scheduled Castes Federation, also an outstanding lawyer, who shed several ideological differences with the Congress. On the eve of independence, he joined the Government as the Law Minister, without leaving his party.
(4) K. M. Munshi, a Congress leader working in the States' people's movement, also a lawyer.

(5) Sayid Mohmmad Saadulla, a League member from Assam of rather liberal outlook, and a profound legalist.

(6) B. L. Mitter, an ex-law member of the Government of India the Dewan of Baroda, who made remarkable contribution to the integration of States with India.

(7) D.P. Khaitan, an industrialist from West Bengal who came with a Congress ticket.

The most remarkable feature of the composition of the Drafting Committee is that it consisted mainly of the lawyers and not of the politicians. The only member of the Committee, who was a part and parcel of the Congress organisation, was K.M. Munshi. As a matter of fact, by the time the Drafting Committee was set up, the broad ideas of the Constitution had already largely crystalized. The political decisions had been taken, the legal shapes were only to be given.

In the preliminary meeting of the Drafting Committee
held on August 30, 1947, Ambedkar was unanimously elected to the Chair. After attending the first meeting of the Drafting Committee in August, 1947, B. L. Mitter ceased to be a member of the Constituent Assembly and was replaced in the Committee, by N. Madhava Rau, another Lawyer, official representative of the Eastern States Group (on December 5, 1947). (Later D. P. Khaitan died and was replaced by T. T.Krishnamachari, on Feb. 5, 1949).

In the first meeting of the Drafting Committee on August 30, 1947 the Constitutional Adviser was asked to circulate the Draft, that he had prepared, among the members of the Drafting Committee by September 23. The whole scrutiny was to be completed by October 24. However, Rau submitted the Draft (consisting of 243 Articles and 13 schedules) in early October and the Drafting Committee met on October 27, 1947, when Rau had left for his tour of the U.S.A., Canada, the U.K. and Eire. From abroad Rau, after taking the opinions of important Jurists, President Truman and President Eamon de Valera, suggested certain amendments to his own draft (15)

The meetings of the Drafting Committee were business-like and continued for over 40 days from October 27, 1947. No special invitee, except the officials in attendance, were present. Shortly after B.L. Mitra’s replacement, B.P. Khaitan died and was not replaced in this period. So the maximum figure of attendance in the Drafting Committee meetings was 6 and the average figure 4. At least 6 meetings were held with two members and 4 meetings with 3 members. Only Ambedkar. In his preface to the Draft Ambedkar admitted that not all the members were present at all the meetings of the Committee (16). "But at every meeting at which any decision was taken the necessary quorum was present and the decisions were either unanimous or by a majority of those present." (17). Ambedkar said that the Drafting Committee had generally followed the recommendations of the Committees which had already submitted various Reports. Reports of two committees (the financial Experts Committee appointed by the President to report on the financial implication of the Model Union Constitution and the Committee on Centrally Administered Areas) which had not been discussed by the Assembly had not been fully adhered to (18).

17. Ambedkar's forwarding letter to the Assembly President Draft Constitution, p.iii.
Besides, the Drafting Committee made certain small but significant changes.

Reconsideration of the Draft.

The draft Constitution of India was published in February, 1948 for circulation and public discussion. At this stage, hundreds of comments, criticisms and suggestions for amendment poured in not only from the Constituent Assembly members, but also from different individuals and public bodies. At the suggestion of the President of the Constituent Assembly, the Drafting Committee met on March, 23, 24, and 27, 1948 and proposed some amendments. Subsequently, a Special Committee, consisting mostly of the members of the Union and Provincial Constitution Committees and the Union Powers Committee under the Presidentship of Nehru was formed by the President of the Assembly to go through the suggestions and comments along with the recommendations of the Drafting Committee. The most significant absentee was Patel. The Special Committee met on April 10 and 11, 1948 and made certain recommendations. Comments and suggestions were, however, pouring in. Such comments etc. included notes from members of the Constituent Assembly, Provincial Governments, Provincial Legislatures, Ministries of the Government
of India and also from the public. Finally, the Drafting Committee met from 18 to 29 October and "examined all the comments and criticisms on the Draft Constitution so far received." The Drafting Committee also examined some of the recommendations of the Special Committee, some of which they did not agree with. The Drafting Committee, then, decided to sponsor and back some amendments to the Draft Constitution. These new recommendations were published in a reprint of the Draft in late 1948. The most exhaustive list of amendments came from Jyprakash Narayan (19). Here, however, the reconsideration of the Draft did not end. The two volumes of Notices of Amendments (received up to 5 p.m. of November 11, 1949) contained 3749 notices including a large number of amendment proposals notified by the Drafting Committee (mostly under the names of Ambedkar N. Madhava Rau and Md. Saadulla). Further proposals for Amendments and Amendments to Amendments followed both from the Drafting Committee and from the members of the Constituent Assembly.

19. See Ambedkar's Prefatory Note, to the President of the Constituent Assembly, with the Draft constitution of India (October, 1949) Prepared by the Drafting Committee Report Indicating Recommendations for Amendment by Drafting Committee.
The Draft Constitution in the Assembly

On November 4, 1948, when the Draft was moved in the Assembly, Hasrat Mohani moved for the postponement of consideration of the Draft constitution "till the election of a fresh and competent constituent Assembly on the basis of joint electorate and the formation of political rather than communal parties in India" (20).

On November 5 Damodar Swarup Seth, a Congress Socialist, moved,

"Whereas the present Constituent Assembly was not elected on the basis of adult franchise and whereas the final Constitution of free India will be based on the will of the entire people of India, this constituent Assembly resolved that while it should continue to function as Parliament of the Indian Union, necessary arrangement should be made for convening a new Constituent Assembly to be elected on the basis of a universal adult franchise and that the Draft Constitution prepared by the Drafting Committee be placed before it for its consideration and adoption with such amendments as it may deem necessary" (21).

20) Constituent Assembly Debates, Vol. VII, P. 44,
21) Ibid, P. 211.
"I can emphatically say," said Seth, "that this House cannot claim to represent the whole country. At the most it can claim to represent that fifteen per cent of the population of India who had elected the members of the legislatures. The election too by virtue of which the members of this House are here, was not a direct one, they are here by virtue of an indirect election" (22). Seth got support only from another vocal back-bencher, S.L. Saxena. These two notions were destined to be defeated. The seventh, ninth and tenth sessions were almost wholly devoted to the first two readings of the Draft. Towards the end of the tenth session, on October 15, 1949, Shrimati G. Durgabai moved for a revision of the Assembly's rules authorising the President to refer the Constitution after it was considered by the Assembly to the Drafting Committee with instruction for renumbering of clauses, such revision of punctuation and such revision and completion of the marginal notes thereof as may be necessary, and to recommend such formal or a consequential or other necessary amendments to the Constitution as may be required" (23).

(22) Ibid, P. 212.
The Revised Draft

Accordingly, when the 11th session of the Assembly began on 14 November, 1949 Ambedkar moved for the consideration, by the Assembly, of the Draft Constitution as amended by the Drafting Committee. The new Draft comprised 395 Articles and 8 Schedules though the changes now introduced were claimed to be merely of formal character (24). Yet the changes proposed by the Drafting Committee were not just 'formal' or verbal, for, along with the renumbering of Articles and like changes, the Committee also made certain necessary alterations for making the meaning of some of the Articles clearer or for filling up any lacuna in an Article without making any substantial change and for remedying the defects and omissions in the Articles of the Draft Constitution.

Some of the more important changes related to citizenship (the Present Article 9, which was originally a proviso of Art 5 only, but now became a proviso of Articles 6 and 8 as well, Rights to personal liberty and equality (Article 15 of the Draft) which was split up into two Articles), the present Article 34 (which was...

(24) Preface to the Draft Constitution of India as Revised by the Drafting Committee (November, 1949).
added for the purpose of enabling the legislature to validate and indemnify the acts of the persons in service during the operation of martial law) the present Articles 77 and 166 (to each of which a clause was added authorising the President and Governors to make rules for the conduct of business and its allocation to Ministers), quorum of legislatures (from 1/6th to 1/10) judiciary (viz. the present Article 222, a new one providing for transfer of judges of High Court by President States' powers (the new Article 365, which provided that the States' inability to comply with executive directives of the centres would be considered as a failure), territorial reorganisation of states by President's authority (through the addition of Article 391').

Discussion on the Amendments continued for 3 days during which a few changes of 'verbal' and 'consequential' nature were made. On November 17, 1949 the third reading of the Draft Constitution started amidst members' joyful satisfaction. After 9 days of discussion the Draft constitution of India was passed. The House thereafter adjourned and met on January 24, 1950 for signing the Constitution.
On the same day the Constituent Assembly elected its President as the President of India and since then worked as the Provisional Parliament of India till the first general elections of 1952 in accordance with a decision of the Assembly on October 10, 1949 (in respect of Temporary and Transitional Provisions of the Constitution (25).

In all, the Constituent Assembly sat openly for 167 days in 12 sessions. The first 6 of these sessions, as is apparent, were devoted to preparatory functions. The seventh to eleventh sessions covering 110 days were devoted to the discussions of the Draft and other necessary business. (Actually a net total of 114 days were consumed by the Draft Constitution).