

जो कमीशन था उसकी जगह पर दूसरी
कमेटी बनाने की आवश्यकता क्यों पड़ी।
आदमियों का सवाल नहीं है।

SHRI SHEEL BHADRA YAJEE (Bihar) :
The Committee is the same; only the name of
its head is different; that is the only difference.

SHRI K. S. RAMASWAMY : Then Mrs.
Paranjpye suggested entertainment tax for
amateur performances should be abolished. It
does not come within the scope of this Bill. The
suggestion will be considered when the
Committee's recommendations are considered.

Then there were many suggestions for
improving the city, for beautifying it, and all
that. Of course it is a laudable object, and it
must be the intention of everybody including
the Government to make our cities as beautiful
as any other international city in the world.

THE DEPUTY CHAIRMAN : The question
is :

"That the Bill further to amend the Delhi
Municipal Corporation Act 1957, as passed by
the Lok Sabha, be taken into consideration".

The motion was adopted.

THE DEPUTY CHAIRMAN : We shall
now take up the clause by clause
consideration of the Bill.

Clauses 2 and 3 were added to the BiU-

*Clause 1, the Enacting Formula and the Title
were added to the Bill.*

SHRI K. S. RAMASWAMY : I move that
the Bill be passed.

*The question was put and the motion was
adopted.*

THE DEPUTY CHAIRMAN : The House
stands adjourned till 2 P.M.

The House then adjourned for
lunch at four minutes past one of the
clock.

The House reassembled after luncheon at two
of the clock, THE DEPUTY CHAIRMAN in the
Chair.

**THE JAMMU AND
KASHMIR REPRESENTATION OF
THE
PEOPLE
(SUP
PLEMENTARY) BILL, 1968**

THE DEPUTY MINISTER IN THE
MINISTRY OF LAW (SHRI MOHAMMAD
YUNUS SALEEM) :

Madam, I beg to move :

"That the Bill to supplement the Jammu
and Kashmir Representation of the People
Act, 1957, as passed by the Lok Sabha, be
taken into consideration".

SHRI LOKANATH MISRA
(Orissa) : You are not audible. Please come
near the mike.

SHRI MOHAMMAD YUNUS
SALEEM : Madam, it is a matter of
common knowledge that so far as the
State of Jammu and Kashmir is
concerned, the Representation of the
People Act, 1951 is applicable for
elections to the Lok Sabha and the
Representation of the People Act of
Jammu and Kashmir is applicable
for elections to the Kashmir
Assembly. The 1951 Act was sui
table amended in 1966 by Act No.
47 of 1966 providing for trial of
election petitions in the High Court
instead of in the Tribunal. In the
previous Act, Madam, the jurisdic
tion to entertain election
petitions vested with the Election
Tribunal and by virtue of this amend
ment the jurisdiction of the Election
Tribunal was transferred to the High
Court and an appeal has been provi
ded to the Supreme Court against the
orders which may be passed by the
High Court disposing of any of those
election petitions. Madam, similarly,
the State of Jammu and Kashmir
also thought to suitably amend the

Jammu and Kashmir Representation of the People Act and they also amended the Act accordingly abolishing the Election Tribunal and jurisdiction of the trial of election petitions was given to the High Court and appeal was provided for in the Supreme Court, with a view to incorporating in it such of the changes in the Jammu and Kashmir Representation of the People Act, 1957 as were incorporated in the Representation of the People Act of 1951 by the Representation of the People Act, 1966 so far as the rest of India is concerned. This was done with a view to putting the State of Jammu and Kashmir on the same footing as the rest of India in the matter of the law relating to elections.

Madam, one of the important changes effected by the Jammu and Kashmir Representation of the People Act was the provision made for appeal to the Supreme Court from orders made by the Jammu and Kashmir High Court in respect of election petitions. But to extend the jurisdiction of the Supreme Court under article 138 of the Constitution of India it was not within the competence of the State Legislature. Therefore Parliament alone has the power by law to confer additional jurisdiction on the Supreme Court in respect of any of the matters in the Union List. For this purpose entry 72 of the Union List in the Seventh Schedule of the Constitution was extended with suitable modifications to the State of Jammu & Kashmir by the Constitution Order No. 83 dated 9th February, 1968 issued by the President under article 370 of the Constitution. Extension of this entry with suitable modifications was by itself not sufficient and it had to be followed by legislation so as to

confer additional jurisdiction on the Supreme Court to hear appeals against orders of the High Court disposing of election petition filed by the aggrieved parties against the orders of Returning Officers. As Parliament was not in session and as the situation called for immediate action an ordinance called the Jammu and Kashmir Representation of the People Act, (Supplementary) Ordinance, 1968, was promulgated by the President.

SHRI BHUPESH GUPTA (West Bengal) :
 When does that expire ?

SHRI MOHAMMAD YUNUS SALEEM : It expires on the 24th.

SHRI BHUPESH GUPTA : That is tomorrow.

SHRI MOHAMMAD YUNUS SALEEM : Yes.

SHRI BHUPESH GUPTA : And now we are on this Bill today.

SHRI MOHAMMAD YUNUS SALEEM :
 So what ? It does not make any difference.

SHRI BHUPESH GUPTA : It does. I will tell you.

SHRI MOHAMMAD YUNUS SALEEM :
 The Jammu and Kashmir Representation of the People (Supplementary) Bill, 1968, now before the House seeks to replace that Ordinance and is intended to confer jurisdiction on the Supreme Court to hear appeals from the decisions of the Jammu and Kashmir High Court in respect of election petitions. Therefore, Madam, I request the House to accept this Bill and to pass it.

The question was proposed.

SHRI BHUPESH GUPTA : Madam, when I asked the hon. Minister when the Ordinance expired he replied

tomorrow and then he told us that does not matter and asked, "What of that". The position is that some 12 hours, or may be 20 hours, before the Ordinance is due to expire, we are called upon to pass this Bill. It is quite clear that the Ordinance was passed very hurriedly. Here also they are trying to get things done hurriedly in this matter. This is not a good thing. Surely you should give us a little more time when you wish to bring such a Bill in order to legalise an Ordinance that you have passed.

But things are not normal in the State of Jammu and Kashmir. There is a saying, as you know, that there is something wrong in the State of Denmark, and I think it may well be said in our context that something is wrong in the State of Jammu Kashmir. Now, Madam, Deputy Chairman, the mere extension of some of the positive provisions of the Indian laws or the Constitution does not by itself mean that democracy is being promoted in the State of Jammu and Kashmir. You know very well that Jammu and Kashmir acceded to India in regard to three subjects to begin with namely, Defence, Communications and External Affairs, I think. Then there was the so-called Delhi Agreement between Sheikh Abdullah called then Prime Minister of the State of Jammu and Kashmir and the Government of India. Now I tried to get hold of a copy of this Agreement but up to now I have not succeeded. In fact, I approached even Maharajah Karan Singh for a copy of the so-called Delhi Agreement. I am sure he tried to get hold of a copy for me but even he has not succeeded. The former Sadr-i-Riyasat has not been able to supply me with a copy of that so-called Delhi Agreement but I must say that he

supplied me at least with a copy of the Constitution of the State of Jammu and Kashmir. Only one State in India has its own Constitution apart from the Constitution that we have here and that State is the State of Jammu and Kashmir. It was a difficult job for me to get hold of a copy of the Constitution also but anyhow I have got hold of one.

Now, after that we have seen that more and more the authority of the Central Government has been extended to the State of Jammu and Kashmir naturally in agreement with the Kashmir Government as is required, I believe, under article 370 of the Constitution. For example, the jurisdiction of the Supreme Court has been extended; the jurisdiction of the Election Commission has also been extended to Kashmir but do they mean that democracy has come even on the same footing as it is here in the rest of the country, in the other States? My answer is a categorical no; it has not happened yet. Therefore mere extension or amendment in the light of our Representation Act or merely by bringing the law there on par with the law here, you are not going to eliminate the abuses and other malpractices that are taking place in that State. In short, you are not overcoming the negation in so many vital respects of democracy in the State of Jammu and Kashmir. We somehow or other do not pay attention to this thing. Even when we feel that we have some criticism to make we do not make thiffling criticism because we feel this might be taken advantage of by certain other parties here in this country and also outside our country. Therefore, in order to avoid that we have been rather restrained in this matter but has it helped? Has it stopped the

[Shri Bhupesh Gupta.] other side from criticising us or from finding out thingf ? No, it has not. On the contrary an impression is gaining ground that the Indian Parliament somehow or other is not interested in a constructive and positive manner in extending democracy to the State of Jammu and Kashmir. That is the impression. Let us frankly admit here that the image we have projected to the people of Jammu and Kashmir is certainly not a very welcome one. Let us not have an ostrichlike policy here as if we do not see things. We do see things. We have therefore to face the facts today. We should have done it much earlier. Now it has to be done, all the more so because the issue is there. We all agree that Jammu and Kashmir is a part of India and it must remain a part of India. At least there is no controversy about this matter in any section of this House but there does exist a controversy as to how India's image should be projected into that State and how we should arrange the internal affairs in that particular State so that the people get more and more integrated with the rest of the country. This task we have not yet fulfilled to the t xtent necessary. In fact, we have to go a long way to achieve that objective. Merely keeping an army or doling out subsidies and grants would not solve the problem. It is possible for us to protect our borders by maintaining the army but you cannot win the minds and hearts of the people of the valley especially by maintaining an armed show. You have to win it by your economic measures, by your policies, by settling your political life in a manner which more and more attract people towards the rest of the country and gives a sense of identification to the people of the valley that they are part of India. It is a question of winning

the hearts and minds of those people who have their misgivings, apprehensions and doubts and some of them certainly are not without reason. The facts will have to be faced, there is a tendency not to face these facts. There is no use shouting

¹ about Sheikh Abdullah's speeches. We know what Sheikh Abdullah has said in the past. We may have our own views with regard to what he is saying today but the problem is that he is an important objective factor in the entire situation. Now that he is out efforts should be made to develop a dialogue between him and the leadership in the country so that to the satisfaction of our entire people, including the people of Jammu and Kashmir, solutions are found. Now solutions you can never find in this particular case by shown, g the red eye all the time, by threatening all the time, by doubting the *bona fides* all the time and by talking as if you are very annoyed and very angry that somebody has been released. It was absolutely wrong on the Prime Minister's part to have said that Sheikh Abdullah has been released as an experiment. She was telling this at a Press Conference. It was an unwise thing. Madam, it was a wrong statement because there is no justification whatsoever to keep a man in detention without trial or in imprisonment for 14 long years. This is not done in any civilised society and this very fact must not have been without its negative impact on the minds of those people in Kashmir and most of them who follow Sheikh Abdullah have got great respect and regard for him. The Government never bothered to take this into account. Therefore

i it was wrong. Now Sheikh Abdullah also signed the Constitution of India. But now much fuss is made of whether

he is a citizen of India or not. Madam Deputy Chairman, he has signed the Constitution of India. Proceed on that basis whatever he may say. He may say some things which we may not like but the point is hard facts have to be faced and some kind of a dialogue has got to be developed, ways and means have to be found, ground has to be explored in order that there does emerge a political solution of the problem that is yet to be settled internally within the country. I do not mix it up with the external question at all. There I disagree with Sheikh Abdullah when he mixes up with Pakistan and other things.

Now, coming to the elections, what happened in the elections ? We thought that by extending the jurisdiction of the Election Commission we would be ensuring in Jammu and Kashmir at least that measure of free and fair elections as we have in the rest of the State. Infact, no election is free and fair when the Big Money is there, when vested interests interfere in the elections and when on the top of it CIA Money and other things come in. But even that measure of free and fair elections we do not have in Kashmir despite the fact that the jurisdiction of the Election Commission by law of Parliament in agreement with the Kashmir Government has been extended to that State. Now take the last general election and take the Election Commission's own Report on the Fourth General Elections.

Now, the Election Commission is an impartial body, ia supposed to be at least. The Election Commission has made serious observations in its report about the elections in the State of Jammu and Kashmir. Now, as you know, in the whole country,

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in the Assembly elections 23,838 nomination papers were submitted. Out of them 426 were rejected. It comes to about two per cent of the total nomination papers submitted to the entire country. It was two per cent rejection of the total. It is the picture of the country as a whole. Let me go to Kashmir. What happened there? There the nomination papers submitted were 461 for Assembly seats. There are only 75 seats, as you know, in the Jammu and Kashmir Assembly. Out of them 126 were rejected. In percentage it comes to over 30 per cent, as against the national average of 2 per oent. (*Interruption*). Do not disturb me. Get hold of this figure. Out of the total nomination papers submitted in the State of Jammu and Kashmir, 30 per cent were rejected. Are the Kashmir people so idiotic and ignorant that they do not know how to file their nomination, when the rest of the country knows it ? They are intelligent people and educated people, as intelligent as we are and as educated as we are. How is it that in the rest of the country it is only two per cent rejection whereas in the case of the State of Jammu and Kashmir it is 30 per cent ? It has to be explained.

SHRI SHEEL BHADRA YAJEE (Bihar) :
 Ask the candidates because they had not signed the prescribed otth forms.

SHRI BHUPESH GUPTA : The
 Election Commission has expressed surprise that it should have happened at all. Therefore, it is an insult to the people of Kashmir, apart from withholding the processes of democraoy there. Ib appears that gerrymendering is going on there. Let us face faots. Unless we faoe facts it is no use passing

[Shri Bhupesh Gupta.]

such legislation, because the people of Jammu and Kashmir feel that it has become a joke that Parliament sometimes passes this kind of measures and harangues to the world that we are extending democracy to the State of Jammu and Kashmir. The question is one of implementation. What is happening there ? See how the Election Commission has been made a nonsense of by the Kashmir Government.

Now, again, in the Lok Sabha there are 420 seats. In the whole country only 5 seats were uncontested. Take the country as a whole, all the seventeen States, where elections took place. The State of Jammu and Kashmir contributed two seats. Forty per cent of the uncontested seats in Lok Sabha came from Jammu and Kashmir. Now, you will have to explain that also. I should like to know what the Minister has to say.

Elections took place, in the last general elections, in 17 States, including the State of Jammu and Kashmir. In regard to 14 Assemblies covering 300 Seats, no seat was uncontested. All the seats were contested. What happened in Jammu and Kashmir ? Twenty-five seats out of 75 seats were uncontested. There was no contest at all. One-third of the seats were uncontested. Well "it is rather strange. Do you think that the Kashmiri people have so settled their matters that there is no quarrel among the parties, among political opinion, that one-third of the seats were left uncontested? Do you think there is no dispute, no disagreement, there is a national consensus, as it were ? If it were so, we do not explain the phenomenon of Sheikh Abdullah or our shoutings here or our formations about what he says or what somebody else says. That, again, has to be realised.

Then, after this, do you know how many elections petitions, writ petitions are pending before the high Court ? The number is 57. Seventy-five seats are there and 25 were uncontested. Fifty-seven writ petitions are another record. Therefore, in the matter of rejection of nomination papers, uncontested seats, writ petitions, everywhere, Kashmir is leading, leading far ahead of any State or almost all the States put together. What else do I understand from it? Surely, the processes of democracy are not working there. Something is standing in the way.

Now, I come to their attitude towards the Opposition. Our Jan Sangh friends are there, I think, about three of them. In an Assembly of 75, there are 12 Opposition members. They show an intolerant attitude towards the Opposition there. What happened I am surprised that a Member, for a technical error or some breach of rules, was suspended for a whole Session, for the rest of the Session. Thereafter it was rescinded and he was called back after seven days or so. He was an independent Member. Now, the same Member happens to be an editor of a journal. The same Member, for something he has written in his journal in the capacity not of an MLA, but as the editor of the paper, was taken note of by the Privileges Committee. The Privileges Committee of the Jammu and Kashmir Assembly seems to have no other business. The Privileges Committee took note of it and then recommended the suspension of this Member for six months. If our Privileges Committee starts doing this kind of thing, how many of us will be sitting here, those who have anything to do with journals and so on ? Many of us will retire. It has done that, although the House has not

yet discussed or adopted it. But these are examples. These are extraordinary things. Now, I do not know what is going to happen.

Therefore, I think that it should be realised that democracy is not working in Kashmir. Let us be frank about it. In so far as imperialism is concerned, the Sadiq Government is anti-imperialist. The other Governments that had been there were also anti-imperialist. To that extent I support such Governments. I would support any Government which does not allow any imperialistic interference and from the point of view of anti-imperialism certainly the present Sadiq Government can expect support from us. But that by itself is not enough. Today it is a question of integration. Today it is a question of integration of relations in a constitutional sense. It is a question of internal democracy, it is a question of reordering their internal economic life there. Have we succeeded in it. No. We have not, frankly speaking, our Fundamental Rights are not operating in Kashmir to the extent they should. Our parliamentary institutions are distorted and vulgarised in Kashmir and that has to be set right.

THE DEPUTY CHAIRMAN : You have taken twenty minutes.

SHRI BHUPESH GUPTA : I do not know how many minutes.

SHRI SHEEL BHADRA YAJEE : You are mistaken.

SHRI BHUPESH GUPTA : Then, later on in the Third Reading stage I will speak. Now, this is quite clear. Therefore, from the point of view of democracy I think this Government is responsible for the failures there. After M/B(N)69BSS—4(a)

all we know how the Kashmir Government works. This Government is not attending to their pressing problem. We have our obligations to Kashmir. Like a big capitalist we disgorge money and giving them crores of rupees. You do not bother about what happens to this money, do not bother as to which Chief Minister makes how much money out of the allocations to the Government's funds, and tell the world, tell the Kashmiris that we give them much money. The Kashmiri people are a proud people. They have their own culture. They are not charity boys that you can mislead or invade them by paying them some money. They have to be one of us. They have to be impressed by your conduct culturally and economically. In the political and economic life Kashmir is in a bad state. I must tell you that because of the partition, Kashmir has suffered. A certain portion of Kashmir is in Pakistan. Their life has been disrupted and dislocated and the people of Kashmir are suffering economically very much.

Therefore, I think that as far as Jammu and Kashmir is concerned something is basically wrong.

Madam Deputy-Chairman, before I sit down I would like only to make one suggestion. I have indicated that ways and means and possibilities should be explored to have a better understanding with Sheikh Abdullah on the basis of the fact that Kashmir is a part of India. Secondly, I should also like Kashmir's autonomy to be enlarged, no doubt about it. Kashmir's autonomy within the framework of the Indian Union has to be enlarged to the maximum possible extent so that the people of Kashmir can be willing partners in the family of this great country. Details I cannot give but the approach is like that. I know what I am saying many

[Shri Bbupeah Gupta.] people do not like. But it is a hoax to claim that by extension of certain political features of Indian laws and Constitutions you are going to strengthen democratic foundations or democracy in Kashmir. It is the greatest hoax, and I think the sooner we call this bluff the better. The problem of Kashmir must be settled internally by making democracy a reality there, by making their economic life better, by attending to the needs and cares of the Kashmiri people.

If I have something more to say, I will say that in the Third Reading stage.

SHRI B. K. P. SINHA (Bihar) : Madam Deputy Chairman, I am reminded of a remark by Winston Churchill about a certain socio-political system. He described that system as an enigma coiled inside a riddle. The hon. Member's speech reminded me of that phrase. His speech was an enigma coiled inside a riddle. On the one hand his plea was that there is no democracy in Kashmir, the Assembly of the Kashmir State is not behaving properly and the Government of India must call them to order. It was an invitation and a plea for unlimited interference by the Centre in the affairs of Kashmir State.

SHRI BHUPESH GOTTA : I protest. Not at all. Madam Deputy Chairman, he has no business to misinterpret what I said. All I said was that your approach is wrong. You should discuss with them in order to ensure their autonomy and make democracy a reality there instead of passing this kind of legislations only or making some funds available. Mr. Sinha, you are a past-master in misunderstanding.

SHRI B. K. P. SINHA : His explanation leaves me unsatisfied and I am

confident it leaves the major part of this House unsatisfied.

AN HON. MEMBER : The whole House.

SHRI B. K. P. SINHA : On the one hand his plea was for unlimited interference so much so that _____

SHRI BHUPESH GOTTA : I strongly object. I never said that. I say it is exactly the opposite.

SHRI B. K. P. SINHA : The hon. Member went so far as to pour ridicule on the functioning of a Committee there, a very important Committee of the Kashmir Legislature. That is the Privileges Committee. But on the other hand at the end, I do not know with what purpose and what motive, he made a plea for expansion of the area of autonomy of Kashmir State. Anyway I am not surprised because they are really an enigma coiled inside a riddle. This is a step in the right direction. The status of Kashmir was settled by the Constituent Assembly of Kashmir and the Parliament of India, and Kashmir is and has been an integral part of India. It is no use trying to challenge that position by specious and involved arguments. But then I agree with him to this extent that it is not enough to integrate Kashmir with India constitutionally and legally because Constitution and laws operate on paper they do not operate in the minds and hearts of men. Moreover they do not operate physically. I have been a constant visitor to Kashmir and my last visit was in 1965. After visiting Kashmir I felt that while we have been moving constitutionally closer and closer, physically Kashmir and the rest of India remain apart to some extent, to a larger extent than other parts of India are from each other, because there are not adequate communications between

Kashmir and India. The road communication is of such nature that it does not operate during the most crucial period of the year, winter, when the Kashmir Valley needs all succour and aid. Therefore, it is necessary that we build our communications. There was only one road which connected the Srinagar Valley with Jammu and I am told that some other roads are being built. It is necessary that we undertake on an adequate scale these road-building activities we build not only mental and constitutional bridges between Kashmir and other parts of India but physical bridges also. We are being constantly reminded that even the air communications fail between Kashmir Valley and the rest of India during certain parts of the year. When I went there in 1965, I experienced this difficulty and I communicated it to the leader of Government here and requested them to build air communications so that they are not snapped by adverse weather. I think something has been done in that direction, but more needs to be done and done quickly.

But more important than all these is the question of economics, the economic situation that obtains in Kashmir. Kashmir lives on tourism today. It has two other sources of development. One is its unlimited forest wealth which needs exploitation and development. But then because of the difficulties of communication, the forest wealth of Kashmir is not being utilised today and developed today in the way that it should be done because transport by road is very expensive and very difficult. The Government of India should apply their mind to this aspect of the matter.

Kashmir produces the best fruits that this country produces. But the fruits of

Kashmir are not competitive in the other markets of India, in the northern Indian markets, because of the difficulty of communication. If the Government of India are able to tackle these two problems, the problem of forest wealth and the problem of fruit, wealth of Kashmir, I think they shall go a long way towards integrating also the mind and the economy of the Kashmir people.

Madam, because of certain reasons private capital is shy so far as Kashmir is concerned. It is not coming forward to build up Kashmir as it is coming forward to build up some other areas of the country because they get quick and certain profit in other areas. In this situation it should be the special responsibility of the Government of India to establish nationalised undertakings in a large measure as possible in Kashmir. That will go a long way towards solving the economic problems with which the brave people of Kashmir are faced today.

In Kashmir as in the rest of India education is developing, educational standards are rising. Many Kashmiri boys come out of technical institutions, they come out of the arts and science colleges, and they find that there is little scope for their employment in the limited area of Kashmir State particularly because industrial Development there has been inhibited for the last fifteen years for certain special reasons. In such a situation, the Government of India should think of ways and means of providing employment to these young educated Kashmiris in other parts of India. I know that the problem of employment is an all-India problem. But then our peripheral areas, our areas on the borders must be a special responsibilities of the Government of

[ShriB. K. P. Sinha.] India, because if there is economic disaffection, economic recession in the peripheral areas, if there is lack of employment in the peripheral areas, naturally, there will be disquiet and and no country should allow a situation of discontent to develop in its border areas. Therefore, I would plead with the Government of India to apply their mind again to this aspect, to this problem of employment of educated Kashmiri young boys and girls. Kashmiris are one of the most intelligent people but that we have in this country and there is no reason why, if they cannot be provided with employment in their own areas, they should not be provided...

SHRI BHUPESH GUPTA : They are intelligent people. But 126 nomination papers were rejected. You do not accept it.

SHRI B. K. P. SINHA:
 with employment in other parts of the country. It is only when we can solve their economic problems and when we physically integrate them by building communications rapidly, that a political solution could come easy. For anybody to say after 20 years that the Status of Kashmir is still unsettled is, in my opinion, to talk wild. Its status has been settled and settled once for all. But then it is possible that suitable adjustments can be made within the political framework so that it satisfies the people of India of which the people of Kashmir are an integral part.

My hon. friend has referred to the rejection of nominations and contested returns. I do not know if it is proper for us to discuss these things here. Particularly my hon. friend always stresses the federal policy of this country and always comes up in anger even on an imaginary plea of interven-

tion by the Centre in the affairs of the State. To me it appears after watching the hon. Members for one year as if they have a split personality. On the one hand they say that it is a federal policy and the Centre should have nothing to do with the affairs of the States. That is a misconception. I should not address myself to this aspect of the problem. But if something goes wrong in Punjab, it must be debated in this House; if something goes wrong somewhere else, which is entirely within the purview of the State Government and the State Assembly it must be brought up here. Therefore, the hon. Members' attitude really strikes me as an enigma.

SHRI BHUPESH GUPTA: The Congress Government is there in Kashmir; your Government, your party is ruling Kashmir today. Please remember it. It is no other, it is the Congress Party.

SHRI B. K. P. SINHA: The hon. Member's approach is that if the same party is ruling both at the Centre and in the States, then the Constitution is unitary...

SHRI BHUPESH GUPTA: No.

SHRI B. K. P. SINHA: And if it is otherwise, then the Constitution is federal. That is something which no student of politics can appreciate. That is his interpretation.

SHRI BHUPESH GUPTA: That is not at all the interpretation.

SHRI B. K. P. SINHA: Madam Deputy Chairman...

SHRI BHUPESH GUPTA: I am very glad that you do not go to the law courts; you spend your time here. Otherwise, your clients would have lost the cases. If that is the argument, the Judges will have turned you out of the courts.

SHRI B. K. P. SINHA: The hon. Member is speaking from his own experience. Probably, many of his clients were hanged and therefore he sought sanctuary in this House.

SHRI BHUPESH GUPTA: I may tell you, I have never done that; nor do I propose to it. But you are supposed to do it. On a personal explanation—I have seen him in the Supreme Court in black coat and flap I do not know honestly why he goes there. But even if you have to go there, do not try to argue any of the cases.

SHRI B. K. P. SINHA: Anyway your experience has been bitter; that has not been my case. Please excuse me.

Therefore, Madam Deputy Chairman, I feel that this Bill is really one step forward on the road to integration. But then much remains to be done and I hope the Government will soon solve those problems which arise out of integration in different fields.

SHRI LOKANATH MISRA (Orissa): Madam Deputy Chairman (Interruptions) ? Yes. The smile is there always, whether it is for Kashmir or for Kerala.

The previous two speakers have referred to many aspects of Kashmir which, strictly speaking, do not come within the purview of the Bill. Therefore, I have felt tempted to speak also a few words about them even if I may not be strictly within the purview of the Bill itself.

For the rest of India, Kashmir has remained for past 20 years the most delicate as well as the toughest subject. For many, Kashmir should have come closer and closer than she is now and some others think, it should have wider powers of autonomy inside the State. I must confess, I would leave it to my

leaders to decide about it. I will not meddle with these basic aspects of it but I will submit some other facts

about Kashmir (Interruptions) I am not; it would be dealt with by Dahyabhaiji if he ever speaks on the floor of the House. But in their extreme fondness for Kashmir, the leaders at the Centre have dealt with the political leaders of the ruling party in Kashmir with some amount of indulgence. They have pampered them too much, whoever has been the political leader in Kashmir. I do not distinguish between Mr. Sadiq and Bakshi Gulam Mohammad and even Sheikh Abdullah. Whoever was there was too much pampered by the Central leaders here. And each took for granted that he was the only window for information about Kashmir. Thereby, India and India's administrators lost touch with the common man of Kashmir. I am blaming all the Central leaders for their indifference and aloofness regarding the masses of Kashmir. They thought they contacted the masses of Kashmir only if they contacted the leader at the top. They did not know where he stood. When Mr. Bhupesh Gupta was referring to Mr. Sadiq, I was smiling within myself— Mr. Bhupesh Gupta wants to support Mr. Sadiq because he is a leftist, he is an anti-imperialist in his words. I do not know whether any imperialism is there still in Kashmir. If there is any, then probably Mr. Bhupesh Gupta is the closest to it, because he got a book, not from any body else, not from Mr. Sadiq, but from the ex-Ruler of Kashmir. And I have the least to do with him because I have never talked with him outside the House, when I talk to him, I talk to him inside the House.

SHRI BHUPESH GUPTA: The hon. Member has the advantage of being in association with so many

[Shri Bhupesh Gupta.] rajahs and ranees and he can perhaps spare Dr. Karan Singh, they are in short supply for me.

SHRI LOKANATH MISRA: Mr. Sadiq is having a reign of terror there in Kashmir. Mr. Bhupesh Gupta submitted some figures. I have some more information to add to what he has said. About the rejection of nominations, the figure is colossal; there is no doubt about it. In a House of 75 if 25 people could return unopposed it is something queer in a democracy. Either there is something wrong with the democratic process in Kashmir itself or else there is some lacunae in all the rules and regulations that exist there. I am told, Madam, that some of the nomination papers were rejected even though they were completely valid. Some of the nominations were rejected subsequently on the next day on the ground that the oath was not read out in the court itself. If subsequently a Returning Officer writes out in his notes that the oath was not read out, then who is there to give evidence?

SHRI SHEEL BHADRA YAJEE:
The candidate is to sign the oath form and the filled form signed by the candidate is to be attached with the nomination paper.

SHRI LOKANATH MISRA: Supposing the paper is missing the next day, what can the poor candidate do?

SHRI B. K. P. SINHA: On a point of order, Madam. All these petitions are subject to adjudication. This aspect of the matter must be remembered.

' SHRI LOKANATH MISRA: Adjudication in the court of law and in Tribunal are two different things. It seems my friend has lost touch with the legal profession for a pretty long time and he does not know the difference

between the two. Even though I have nothing to do with the legal profession, on common sense I say that the Tribunal is something different from a court of law.

SHRI B. K. P. SINHA: You are mistaken. It is not mere Tribunal. It is High Court now.

SHRI LOKANATH MISRA: A High Court dealing with an election petition is a Tribunal and not a High Court. I am afraid you have to refresh your knowledge of law again.

SHRI A. P. CHATTERJEE (West Bengal): Mr. Misra is wrong. Under the Representation of the People Act an appeal does not lie to any person or designation but it lies to the High Court itself. Therefore, the High Court acts as High Court and not as a Tribunal.

SHRI LOKANATH MISRA: The question that he raised is about a Tribunal and not about a High Court.

THE DEPUTY CHAIRMAN: Please continue.

SHRI LOKANATH MISRA: I will finish within two minutes. For the information of the House, in Kashmir it is still Tribunal. It is not High Court.

SHRI A. P. CHATTERJEE: There you are right.

SHRI LOKANATH MISRA: That is what we are talking about. We are not balking about West Bengal.

SHRI MOHAMMAD YUNUS SALEEM: I may for the information of the hon. member submit that the Jammu and Kashmir Representation of the People Act has been suitably amended and the jurisdiction of the Election Tribunal has been abolished. All the election petitions pending

before the Tribunal have been transferred to the High Court. Now the High Court of Jammu and Kashmir has seized the jurisdiction of all the election petitions.

SHRILOKANATHMISRA: Madam it is so difficult to keep track of things in Kashmir. Nobody knows when it is the Tribunal and when it is the High Court. Now that the hon'ble Minister has furnished that information to the House I will not deal with the matter any more.

Madam, I am surprised about the way things move in Kashmir. Mr Sadiq is extremely dictatorial. Whenever I had an occasion to refer to that matter I have referred to it in that way. The Government of India should take care of such a matter in a State like Kashmir, and unless they are cautious about it things may go wrong.

Madam, Mr. Sinha, while explaining about the point of view of the ruling party, said about the difficulties of the Kashmir State, they are economic difficulties. But he did not refer to one particular aspect namely, of social contacts. We have absolutely no social contact with Kashmir. I would say that even in respect of my Muslim brethren all over India. I do not think many Muslims outside Kashmir ever try to marry either a Kashmiri lady or think of giving their daughters or sisters in marriage to Kashmiri Muslims.

SHRI A. P. CHATTERJEE: Bring in a legislation.

SHRILOKANATHMISRA: That social contact is really lacking. If this social contact could be developed, probably integration would have been much faster.

SHRI G. H. VALIMOHMED MOMIN (Gujarat): Do not worry about that and do not say anything

about that. How many Oriya marry Gujarati boys or girls?

SHRILOKANATHMISRA: I have to worry about it.

SHRI G. H. VALIMOHMED MOMIN: You have no sense of standard about that. How many Oriya girls are married to Gujarati boys? Do not worry about Muslims.

SHRI LOKANATH MISRA: My Gujarati friend may not be worrying about Kashmir because he is worried too much about his own home affairs. I have to worry about India as a whole. Therefore, I put the suggestion that if Muslim brethren from the rest of India or even Hindus, for that matter, or if Muslims in Kashmir are willing to marry either Hindu ladies or Hindu boys it will bring about integration. *(Interruption by Shri G. H. Valimohmed Momin)* Why do you get up?

SHRI G. H. VALIMOHMED MOMIN: Because I feel about it-----

SHRI LOKANATH MISRA: You do not know anything about integration.

SHRI G. H. VALIMOHMED MOMIN: . . . it is nonsense.

SHRI G. RAMACHANDRAN (Nominated): My friend from Gujarat what he is feeling so much about? It is not clear to us.

(Interruption by Shri G. H. Valimohmed Momin)

SHRI LOKANATH MISRA: It only shows he is a fanatic Muslim.

SHRI G. H. VALIMOHMED MOMIN: Do not use the word "fanatic Muslim". You are a fanatic Hindu in alliance with the Jana Sangh.

SHRI LOKANATH MISRA: The entire India knows about me whether I am a fanatic or not.

श्री विमलकुमार मन्नालालजी चौरड़िया :
(मध्य प्रदेश) : मोमिन साहब, जनसंघ
को क्यों बीच में लाते हो, आपको उनको
जो कहना हो कहिये । बेकार जनसंघ को
बीच में ले आये ।

THE DEPUTY CHAIRMAN: Why shoi Id
everybody be ag tated? He is expressing his
opinion.

SHEI LOKANATH MISRA : Madarn, I
was very much interrupted by the hon.
Member from Gujarat. I do not know if I was
committing a mistake in suggesting these
things. I said that all in good faith. I was
suggesting of greater social contacts, greater
integration. I do not know why he was so
much upset about it. All that really upsets me.

Now, Madam, I would like to come to the
end of my speech. I would suggest that the
hon'ble Minister in charge of this Bill should
pay more attention to Kashmir matters. He
should not leave everything to Mr. Sadiq. I
know Mr. Sadiq is extremely partisan so far
as the Congress is concerned. He commits
one mistake invariably. The mistake is that
anybody who is opposed to the Congress
there is dubbed as anti-national. There lies
their defect. There may be another parallel
organisation running along with his
organisation, equally or rather more patriotic
than Mr. Sadiq himself. He forgets about it.
Therefore, he takes advantage of whispering
into the ears of our Central leaders here
against anybody who is opposed to him.
Anybody opposed to him does not mean that
he is unpatriotie. There are many people who
are equally patriotic or even more patriotic
and who want to come to politics, people who
probably could have brought Kashmir much
nearer to India but be is an impediment. He
whispers into the ears of out leaders here.

You must be careful about such reports
coming from Mr. Sadiq. These are my reports.
I have heard them from my friends. They
have been telling that Sadiq behaves in that
way. Now it is for the Government of India to
look into it. I warn the Goverment of India
that if they do not understand the situation,
they aie not going the right way. Thank you,
Madam.

SHRI GULAM NABI UNTOO

(Jammu and Kashmir): Madam Deputy
Chairman, the Bill before us appears to be an
ordinary amendment, but it has much of
historical significance. Three speakers have
spoken before me and I regret that heat was
introduced by Mr. Misra . . .

SHRI LOKANATH MISRA: Not by Misra
but by Mr. Momin.

SHRI GULAM NABI UNTOO:

When the idea of marriage is introduced,
emotion comes with it. But I tell you, if
anybody is prepared to offer marriage to a
Kashmiri, he is welcome to it.

SHRI BHUPESH GUPTA: You are a
married man ?

SHRI GULAM NABI UNTOO :
Certainly.

SHRI BHUPESH GUPTA : Don't you
know that marriage creates problems ?

SHRI GULAM NABI UNTOO :
That problem was last year .

THE DEPUTY CHAIRMAN: I am not
able to follow these marriage problems.

SHRI GULAM NABI UNTOO : I
understand the feelings of Mr. Bhu-pesh
Gupta on the issue of marriage.

SHRI A. P. CHATTERJEE: Send him to
Kashmir.

SHRI GULAM NABI UNTOO : | The present Bill before us is the Jammu and Kashmir Representation of the People (Supplementary) Bill. Madam, Mr. Misra and Mr. Bhupesh Gupta expressed their views that the election law in Kashmir was different from the election law in the rest of the country. I would submit that both are identical as far as the scheme of the Act is concerned; the Representation of the People Act of the State is identical with the Representation of the People Act passed by Parliament. It was only as a result of the amendment of 1966 passed by Parliament here, abolishing the tribunals, that the State also felt that it should also place the State election law at par with the election law for the rest of the country. That was the only consideration that brought the present Bill. For a realistic and analytic approach to the economic problems of Kashmir I am thankful to Mr. Sinha ; he projected certain realistic views about the economic situation. As far as Mr. Bhupesh Gupta is concerned, wherever Congress men, in whatever form it may be, they must oppose it that is the principle, that is the line they always adopt and they will continue to adopt. Therefore, there is no surprise over his speech criticising the Government in Kashmir.

Madam, it is not by law that we can extend democracy to some part. It is only out of an evolution functioning within a particular socio-economic condition that democracy will develop. The State of Jammu and Kashmir, as has been rightly argued by Mr. Sinha, is a mountainous State and has the problems of road, electricity and other economic problems. The Government should look into them.

As for the evolution of the historical processes of democracy in Kashmir and

the fighting of elections, we should not confine our attention only to the elections in 1967. For that, we have to go back into the past, beyond 1967, and see how democratic institutions were functioning there since 1950. In 1950, the first elections were held under the leadership of Sheikh Mohammed Abdullah, whose cause Mr. Bhupesh Gupta is advocating. To his surprise, I would submit that no contest was held then in 1950.

SHRI A. P. CHATTERJEE : What do you mean by no contest ?

SHRI GULAM NABI UNTOO : He told the people "These are the people whom you are selecting. Do you accept them or not ?" And they accepted them out of fear or love. But there was no contest.

Then in 1957, again elections were held.

SHRI A. P. CHATTERJEE : At that time, Sheikh Abdullah was in prison . . .

SHRI GULAM NABI UNTOO : As the people felt that the Election Commission of India was working impartially and independently, they tried to raise their voice and plead that the jurisdiction of the Election Commission of India should be extended to the State of Jammu and Kashmir, and also that the jurisdiction of the Supreme Court should be extended to that State. Madam, since 1953, another Chief Minister who took over later, Bakshi Ghulam Mohammed, and the present Chief Minister, who is the leader of the political movement there, expressed this view that the jurisdiction of the Election Commission and the jurisdiction of the Supreme Court were necessary and desirable. The rift in the then National Conference came to the surface. And it was because of this demand

[Shri Gul m N bi Ur.too] that Mr. G. M. Sadiq had to come out of the National Conference in 1957 and form another political party known as the Democratic National Conference. At the first convention of the Democratic National Conference, the first memorandum that was submitted by the Chairman, *i.e.* the present Chief Minister, was that the jurisdiction of the Election Commission and the Supreme Court should be extended to the State of Jammu ; nd Kashmir. And the Government in 1959, under the pressure of public opinion, was forced to amend the State Constitution and vest the powers of the Election Commission with the Election Commission of India and ask the President also to extend the jurisdiction of the Supreme Court to the State of Jammu and Kashmir.

Then, again elections were held in 1962. After the extension of the jurisdiction of the Election Commission and the Supreme Court, democracy started functioning in a more comfortable and healthier way and people started taking interest in the elections and in coming forward and filing nomination papers. In 1962, again 39 seats were declared uncontested, 32 of them being in the Kashmir Valley. In 1967, again people in large numbers filed their nomination papers and contested 56 seats. These figures show that democracy is improving and is on healthier lines in Kashmir, and is not deteriorating. It was the sheer political vision of the present Chief Minister, under whose leadership the Government there functions now, that encouraged the people to come forward and take part in the elections. We should also not forget that in the 1967 elections a call was given by the Plebiscite Front whose leadership is being patronised by

Sheikh Mohammed Abdullah that people should not participate in the elections and people should boycott the elections. That also affected the elections here. Therefore if, according to some persons, anything has been done wrongly, the remedy open to them is to file their election petitions, and some people have filed election petitions and those election petitions are before the High Court. Mr. Misra pointed out that no Election Tribunal continues to function in Kashmir. I would humbly submit that it is the High Court in Jammu and Kashmir before which the election petitions are being heard. It is not the Tribunal that is working or functioning in the State. It is the same High Court there having the same powers as the other High Courts in the other States. Therefore we should not bother how it functions. Rather if we expect that the Home Department should issue a whip to the High Court, that would not be in accordance with the functions of the judiciary. Therefore, Madam, I feel that the present Bill is very important and it is of very great historical significance; it results in close integration of the State with the rest of the country. Therefore I welcome the Bill. Thank you.

श्री निरंजन बर्मा (मध्यप्रदेश) :
 आदरणीया, काश्मीर के बारे में जो यह बिल
 आया है उस पर विभिन्न मित्रों ने अपने
 अपने विचार भिन्न भिन्न तरह से प्रकट
 किये हैं । काश्मीर का मामला एक बहुत
 ही बिगड़ा हुआ मामला है और उस पर
 बड़ी गम्भीरता के साथ विचार किया जाना
 चाहिए । काश्मीर बहुत पहले से अनन्तकाल
 से भारतवर्ष की भूमि के साथ एक अविभाज्य
 खंड के रूप में मिला हुआ भाग रहा है ।
 जब जब उसे अलग करने की कोशिश की गई

तो वह कभी अलग नहीं हुआ और उसने बड़े बड़े बलिदान किये।

काश्मीर के मामले पर किसी भी बहस में जब हमारे विद्वान कांग्रेस के भाई बोलते हैं तो आज तक कभी यह नहीं देखा गया कि वे कभी स्पष्ट भाषा की बात करें। वे हमेशा कोई न कोई चीज छिपाकर या इस दृष्टिकोण से कि जनता के सामने तथ्य न आये, इस प्रकार की भाषा का उपयोग करते हैं। आज भी सदन में, हमारे दो तीन मित्रों ने काश्मीर के मामले में अपने विचार प्रकट किए और इन दो तीन महाशयों ने एक स्वर से यह कहा कि काश्मीर भारत का अविभाज्य अंग है और दुनिया की कोई शक्ति उसे अलग नहीं कर सकती है। बात अपने स्थान पर बहुत सही है और हम में से कोई भी नहीं चाहता है कि काश्मीर एक क्षण के लिए हम से अलग हो। यह तो बात बहस की बात हो गई, लेकिन वस्तुस्थिति बिल्कुल भिन्न है। वस्तुस्थिति यह है कि जो भाई बड़ी शक्ति के साथ यह कहते हैं कि काश्मीर भारतवर्ष का एक अंग है और जैसे दूसरे प्रान्त है, उसी प्रकार से एक प्रान्त है। मैं उन मित्रों के सामने कुछ तथ्य रखूंगा और यह बतलाऊंगा कि अगर काश्मीर दूसरे प्रान्तों की तरह इस भारतवर्ष देश का एक अभिन्न अंग है, तो यह असमानता क्यों है?

काश्मीर इन्स्ट्रूमेंट आफ एक्सेशन के अन्तर्गत भारतवर्ष में शामिल हुआ। भारतवर्ष की बहुत सी रियासतें इन्स्ट्रूमेंट आफ एक्सेशन के अन्तर्गत भारतवर्ष के राज्य के अन्तर्गत आईं। किन्तु बड़ौदा, खालियर, ट्रावनकोर की रियासतों के लिए कोई अलग कानून नहीं बनाया गया। लेकिन काश्मीर के संबंध में यह कहा जाता है कि उसके लिए अलग से कानून इसलिए बनाये जाते हैं क्योंकि वहाँ एक विशेष प्रकार की

स्थिति है। तो हम अपने मित्रों से कहना चाहते हैं कि क्या यही एक सामान्य कारण है जिसके कारण उसके लिए अलग से कानून बनाये जाते हैं? हम कहते हैं कि एक ऐसे प्रान्त के लिए जो हमारी सीमा पर है, जिस के लिए गत 25 वर्षों से हिन्दुस्तान की जनता ने अधिक से अधिक बलिदान किये, उसकी एक विशेष परिस्थिति आप क्यों बना रहे हैं और इस स्थिति में उसको क्यों रखना चाहते हैं?

1947 के पश्चात् काश्मीर में कुछ समय के लिए कांग्रेसी सरकार ने हिन्दुस्तान के लोगों के लिए वहाँ पर आवागमन बंद कर रखा था। वहाँ पर कोई बिना आज्ञा के नहीं जा सकता था। जिस हिन्दुस्तान की जनता ने काश्मीर के लिए बलिदान और त्याग किया, सत्याग्रह किया और हिन्दुस्तान के सबसे बड़े देशभक्त ने इस हेतु अपना बलिदान किया, आज काश्मीर के लिए इस सरकार ने बंधन लगा रखे हैं। कांग्रेस के मित्र जब कभी डंके की चोट पर दुनिया को कुछ समझाने का यत्न करते हैं तो तब ही संकट आता है।

आदरणीया, पाकिस्तान, हिन्दुस्तान नाम के दो अलग अलग इस देश के टुकड़ों का निर्माण होने के बाद भी, भारत के बड़े बड़े जिम्मेदार नेताओं ने 1948 के बाद इस सदन में और बाहर यह कहा है कि हिन्दुस्तान का बटवारा हिन्दू और मुसलमान के नाम पर नहीं हुआ। इसी प्रकार इस तथ्य को भी छिपाने का यत्न करते हैं कि काश्मीर का प्रश्न अब शेष नहीं है। काश्मीर अब हिन्दुस्तान का एक अविभाज्य अंग के रूप में है। अगर यह बात है तो हम उनसे पूछना चाहते हैं कि काश्मीर जब हिन्दुस्तान का एक अभिन्न अंग है, तो आज तक धारा 370 संविधान की जो है, वह क्यों रखी गई है, उसको उठाने की आवश्यकता क्यों नहीं

[श्री निरंजन बर्मा]

हुई ? आज काश्मीर का आदमी अपनी विशेष परिस्थिति के अनुसार बम्बई में रह सकता है, कलकत्ते में होटल चला सकता है, दिल्ली में मकान बनवा सकता है, लेकिन कोई भी हिन्दुस्तानी, काश्मीर को छोड़कर शेष देश के आदमी, काश्मीर में बिना आजा के नहीं रह सकते हैं, वे वहाँ पर सम्पत्ति अर्जित नहीं कर सकते हैं। इस तरह की विशेष परिस्थिति है और काश्मीर एक अंग भारतवर्ष का है तो फिर इस तरह से सरासर धोका देने की बात क्यों की जाती है।

आदरणीया 1947 के पहले जिन जिन देशों को स्वतंत्रता मिली या जो देश स्वतंत्र थे या जो देश पहले से ही पूरी तरह से स्वाधीन थे, उनके सामने भी इसी प्रकार की समस्याएं आईं। ईरान के सामने अजरबैजान की समस्या आई, मिश्र के सामने सूडान की समस्या आई, बर्मा के सामने केरन की समस्या आई, उत्तरी और दक्षिण कोरिया की समस्या आई, फिलस्तीन की समस्या आई, लेकिन दुर्भाग्य से हिन्दुस्तान को जो समस्या काश्मीर के संबंध में है, वह अभी तक नहीं सुलझी जब कि दूसरी सब समस्याएं सुलझ गई हैं। असल में ऐसा मालूम पड़ता है कि हिन्दुस्तान की सरकार आधे मन से काम करना चाहती है पर वह दुनिया को बतलाना चाहती है कि हम निश्चित रूप से काश्मीर के मामले में आगे बढ़ रहे हैं। काश्मीर हमारा एक भाग है। जनमत लेने का कोई प्रश्न ही नहीं है। अतः कानून बनाने के संबंध में किसी भी प्रकार से कोई भारतवर्ष का भाग ऐसा नहीं आया है जिसके लिए अलग से या ताकत के साथ कानून बनाये जाने की आवश्यकता है।

जनमत लेने का मामला यदि देखा जाये तो वहाँ जनमत का कभी लाभ उठाया नहीं जा

सकता क्योंकि अगर एक हाथ से सरकार वहाँ के लोगों को विरोधी प्रचार करने की छूट दे दे और दूसरी तरफ जनमत होने का मौका भी दे। उदाहरण के लिये 1936 में फ्रांस और जर्मनी के बीच में जो सारलैंड का इलाका गत दो सौ वर्षों से "बोन आफ कंटेनन बिटवीन दी टू कंट्रीज" था, जब वहाँ पर जनमत संग्रह हुआ और प्रचार करने की हिटलर को पूरी छूट दी गयी तो 97 प्रति शत से अधिक मत जर्मनी को वहाँ पर मिले और जनमत संग्रह के परिणाम पर जो कल्पना संयुक्त राष्ट्रों के लिये थी वह अधूरी रह गई। और दूर क्यों जाय जिसे हम उत्तर पश्चिमी सीमा प्रांत कहते हैं जहाँ पर कांग्रेस का राज था, लालकुर्ती दल वाले कांग्रेस के स्वयंसेवक थे और अपने देश के महान नेता खान अब्दुल गफ्फार खां वहाँ पर थे, जब वहाँ पर भी जनमत संग्रह कराया गया तो उसने भी हिन्दुस्तान के साथ अपने को रहने में आपत्ति स्वीकार की।

इसी प्रकार अगर एक तरफ तो हम यह कहें कि काश्मीर में हम जनमत संग्रह कराने के लिये बाध्य नहीं हैं, कोई इस प्रकार का कानून नहीं बन सकता और दूसरी ओर उन विधटनकारी शक्तियों को जो अफ़ज़ल बेग के नाम से, शेख अब्दुल्ला के नाम से वहाँ पर दिन और रात प्रचार कर रही हैं, उनको अगर खुली छूट दे दें तो यह कल्पना करना कि जनमत से लाभ होगा नितांत भूल है। फिर इस सदन में बड़े जोर के शब्दों में यह कहना कि काश्मीर भारत का अंग है, यह बात बिल्कुल गलत होगी।

माननीया, इन 20 वर्षों में काश्मीर पर भारतवर्ष की जनता का, गरीब आदमियों की गाढ़ी कमाई का पैसा लगभग 45 अरब रुपया हम खर्च कर चुके हैं। तब भी काश्मीर श्री फी सदी हमारा है यह आज हम नहीं

समझ पाते। जितना रुपया पैसा खर्च कर दिया गया है और जितनी हमारी वहां पर सीमांत होने के कारण फौजें हैं, उनके बाद भी इस परिणाम पर पहुंचा जा सकता है कि काश्मीर से हम बराबर दूर चले जा रहे हैं। आज से छः महीने पहले डिफेंस की तरफ से इसी पार्लियामेंट के कुछ माननीय सदस्यों को काश्मीर जाने का मौका मिला। उस समय काश्मीर में एक बड़ी हवा थी और वह काश्मीर में हवा कांग्रेस के मित्रों ने फैलाई थी। वहां पर यह हवा थी कि काश्मीर वास्तव में एक प्रांत नहीं है। काश्मीर तो तीन टुकड़ों को मिला कर के एक बड़ा प्रांत बना है, एक टुकड़ा जम्मू घाटी, एक श्री नगर और एक लद्दाख। वहां के लोगों में उस समय यह विचार बहुत जोरों से था कि अधिक से अधिक लद्दाख और जम्मू की घाटी जहां पर डोगरे रहते हैं, जहां पर अ-मुस्लिम आबादी है, यह सब मिल कर एक हो जायें और यह संभवतः एक दिन हिंदुस्तान के हिस्से में चला जायगा और शेष जो श्रीनगर की घाटी है वह वर्तमान में जो काश्मीर का प्रदेश पाकिस्तान के कब्जे में है उसके साथ मिल कर एक अलग प्रदेश का रूप धारण कर सकता है। यह हवा जो वहां पर फैल रही थी इसके फैलाने वाले कौन थे? इसके फैलाने वाले भी कांग्रेस के छोटे छोटे नेता नहीं, बड़े बड़े मूर्धन्य नेता और बड़े बड़े व्यक्ति थे जो दिन रात दो भाषा में बात करते हैं, एक भाषा में जनता के सामने और दूसरी भाषा में इस पार्लियामेंट के सदन में। यही कारण है कि काश्मीर का मामला आज तक उलझा हुआ है, आज तक सुलझा नहीं है। काश्मीर के मामले में हम काश्मीर की जनता को समीप लाने के लिये जितना यत्न करते हैं काश्मीर की जनता बराबर दूर होती चली जाती है।

पहले श्रीनगर तक पहुंचने के लिये जो रास्ता था रावलपिंडी की तरफ से था

और बहुत बड़ा व्यवस्थित मार्ग था जहां से पहले काश्मीर के साथ हम सम्बन्ध रखते थे और वह हमारी सेनाओं के आवागमन का साधन था। लेकिन पाकिस्तान ने जब उस मार्ग पर कब्जा कर लिया तो हमने दूसरा मार्ग बनाया और उस मार्ग में हमने बनिहाल सुरंग बनाई। उसके बाद इतनी दुर्गम पहाड़ियों में से निकल कर के उन घाटियों को चीर चीर कर हम वहां पर पहुंचे जिन को बनाने में भारतवर्ष के श्रेष्ठ पुत्रों का, बहुत से सेना के जवानों का बलिदान हुआ और बहुत से आदमी वहां पर मारे गये। आज हम कनाडा से, अमेरिका से और दूसरे स्थानों से अच्छे से अच्छे यंत्र ला कर के श्रीनगर से लद्दाख तक की सड़क का निर्माण कर रहे हैं। ऐसे यंत्र हम वहां पर लाये हैं कि जो एक दिन में एक हजार गज और २० फिट की चौड़ी डामर की सड़क बनाते हैं और जो वहां पर काम कर रहे हैं।

वहां पर हजारों मजदूर जो काम कर रहे हैं हमको उनसे भी बात करने का मौका मिला। वहां का मजदूर हर बात समझता है; मस्तिष्क से भांप लेता है कि यह आदमी कांग्रेसी मस्तिष्क का है या काश्मीरी मस्तिष्क का है। अगर कांग्रेसी उसने देख लिया तो वह उसकी हां में हां मिला कर मीठी बातें करेगा और अगर वह यह समझ लेता है कि यह व्यक्ति काश्मीर का है तो वह काश्मीर की भाषा में बात करेगा और वह अपनी दूसरी बात करेगा। जो मजदूर वहां पर काम कर रहे हैं, वहां के सेना के अधिकारियों से यह मालूम हुआ कि उनपर विश्वास नहीं किया जा सकता। आज भी वहां पर यह हालत है कि जो दिन में काम करते हैं वे ही जहां हमारा काम होता है उसकी भांप लेते हैं, देख लेते हैं और रात्रि में ये घूमपैठिये बन कर वहीं पर बस फेंकते हैं, उधम मचाते हैं और किसी न किसी प्रकार से उपद्रव करने के लिये

[श्री निरंजन बर्मा]

तैयार रहते हैं। यह काश्मीर की स्थिति है। फिर भी काश्मीर के बारे में इस प्रकार का एक अधूरा कानून लाया गया है। कानून ऐसा लाना चाहिये या कि काश्मीर प्रांत में जितने भी अलग कानून हैं या ऐसे कानून बने हुये हैं जिन से पृथक्तावादी मनोवृत्ति प्रगट होती है, उन कानूनों को वहां पर नष्ट कर देना चाहिये, उनको समाप्त कर देना चाहिये और भारतवर्ष में जिस तरह से केरल में, मध्य प्रदेश में या बंगाल में ऐसे कानून बने हुए हैं जिन कानूनों से केन्द्र और प्रांत का आपस का अलगाव खत्म होकर उन दोनों में आपस में एकता की भावना उत्पन्न होती है, वैसे कानून को यदि इस सदन में लाया जाता तो उमका बहुत अच्छे अंशों में स्वागत किया जाता। लेकिन इस कानून के जरिए से कि केवल हाई कोर्ट की अपीलें सुप्रीम कोर्ट में पहुंच जायें और वह उनपर निर्णय दें, ऐसे अधूरे कानूनों से आप काश्मीर की समस्या सुलझ नहीं सकते। काश्मीर की समस्या की जड़ें बहुत गहरी बैठ गई हैं और वे अब प्रांत से बाहर जा कर देश में फैली हैं और देश में बाहर जा कर अंतर्राष्ट्रीय स्थिति में काश्मीर की समस्याएं बराबर फैलती जा रही हैं। काश्मीर का सवाल केवल एक छोटे से प्रांत का सवाल होता तो हमें किसी प्रकार का भय खाने की जरूरत नहीं थी, लेकिन काश्मीर के प्रश्न के साथ एक सीमा का प्रश्न भी हमारे सामने है और काश्मीर के प्रश्न के साथ जो हिन्दुस्तान के साथ घृणात्मक मनोवृत्ति रखता है उस पाकिस्तान देश के साथ भी हमारा एक प्रश्न है और पाकिस्तान चूंकि इसी प्रश्न के कारण दुनिया में, अंतर्राष्ट्रीय स्थिति में हमको बदनाम करता चला आया है, इस लिए वह जो देश साधारणतया हमसे अलगाव रखने हैं उनको मित्रता बटोरने के लिए भी वह तैयार हो रहा है और चीन को भी उसने अपना मित्र बना रखा है। एक इस

प्रश्न के ऊपर संसार भर में इस प्रकार से हमारे विरुद्ध विषाक्त वातावरण तैयार किया जा रहा है। तो जो कांग्रेसी नेता या जो कांग्रेसी मंत्री या हिन्दुस्तान की सरकार को चलाने का जो अपने ऊपर एक बड़ा भार ग्रहण किए हुए हैं हम उनसे प्रार्थना करते हैं कि जनता को दोहरे रूप में वे धोखा न दें, साफ बात करें और अगर वे समझते हैं कि काश्मीर हिन्दुस्तान का एक भाग है तो वहां पर अलग कानून नहीं रहने चाहियें।

प्रश्न यह उठता है कि भारत से हम क्या अपेक्षा करते हैं? हम चाहते हैं कि धारा 370 तत्काल खत्म की जानी चाहिए। वहां के किसी आदमी को हमारे यहां रहने का जो अधिकार है उसी तरह से हमारे यहां के निवासियों को वहां रहने का अधिकार मिलना चाहिये। इसी प्रकार से वहां जो अलगाव की भावना है उसको नष्ट करने के लिए जम्मू, काश्मीर और लद्दाख इन तीनों प्रान्तों के एकीकरण के लिये अधिक से अधिक प्रयास होने चाहिए और वे प्रयास, आदरणीय, उसी समय हो सकते हैं जब हम काश्मीर के उस भाग को लेने के लिए कार्यवाही करें जिस पर पाकिस्तान ने बलात कब्जा कर रखा है। तभी काश्मीर का मामला सुलझ सकता है, अन्यथा काश्मीर का मामला कभी सुलझ नहीं सकता और यहां पर काश्मीर के मामले में मन्नाशु बहाने से कोई लाभ नहीं होगा। इन शब्दों के साथ इस अधूरे कानून को पूरे कानून के रूप में देखने को हम इच्छा रखते हैं।

SHRI A. P. CHATTERJEE: Madam Deputy Chairman, Kashmir is the problem and there is no doubt about it. Let us not wink our eyes at it and let us not blind ourselves to the fact that it is a situation in which we are facing difficulties, the Indian Government is facing difficulties. Now, we often try to wash the problem off or rather, we

tiy to make the problem non-existent, by imaginative and wishful thinkings hold that the problems are not there. But it is clear that the problems are there and it is also very obvious, and emphatically it comes to our mind very often, it is brought to our mind very often that even twenty years after independence we have not been able to solve the problem of Kashmir satisfactorily and correctly. Let us call a spade a spade, and it is no use shutting our eyes to the self-evident fact that we have not been able to solve the problem in Kashmir satisfactorily. It emphatically presses itself, it emphasises itself before our very eyes when we remember that we have still had to keep one lakh of soldiers for forty lakhs of people in Kashmir, that is to say, we have had to keep on- soldier to keep guard over, or watch over forty Kashmiri people. Now that is itself a fact which requires heart-searching on the part of all honest citizens of India.

Now one thing we readily tend to forget, and that is also clear from the speeches that we have heard on the floor of the House this afternoon; we tend to forget that Kashmir has been given, or was given a special status even by the Constitution of India. Kashmir is not of the same category as the other States which have acceded to India, and Kashmir had an Instrument of Accession which has special features. We are often forgetful of article 370 of the Constitution which clearly lays down that the legislative power of Parliament shall not apply to the State of Jammu and Kashmir except in regard to certain matters which were given to the Dominion Legislature to be legislated upon, by the Instrument of Accession, and that also after prior consultation with the Government of Jammu and Kashmir. And if you want to legislate on other matters, there has

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to be prior concurrence of the Government of Jammu and Kashmir. This very article also predicted the setting up of a Constituent Assembly for the State of Jammu and Kashmir. Now that is a fact—as I am saying—which is lost sight of by many of us. I do not know of any other princely State which acceded to India and in respect of which such provisions have been made in the Constitution, or in respect of which there was any contemplation at any time of any Constituent Assembly being set up and the setting up of a separate and independent Constitution in respect of that State. But in respect of Jammu and Kashmir the provisions for a separate and independent Constituent Assembly were contemplated, and the Constituent Assembly actually sat and framed a special Constitution for Kashmir. Now Kashmir, therefore, is a State with a separate Constitution, which is apart from and independent of the Constitution of India. If Kashmir is an integral part of India, I am not quarrelling on that issue. Kashmir is an integral part of India because of the Constitution of Jammu and Kashmir, not because of the Indian Constitution. Therefore, the people of Kashmir have a separate and independent status. The people of Kashmir framed the Constitution for themselves, and by virtue of what they framed for themselves, they have chosen to call themselves an integral part of India. Kashmir is not an integral part of India because the rest of India thought or said that it is an integral part of India. Kashmir is an integral part of India because the Kashmiris chose to say that they are an integral part of India.

Therefore, Madam Deputy Chairman, here is a great factor, and that factor should not be lost sight of. But sometimes on the floor of this House we hear debates and discussions as if the people

[Shri A. P. Chatterjee.] of Kashmir are something or somebody which are to be treated like the people of West Bengal or the people of Bihar or the people of Uttar Pradesh or the people of the Punjab. It is not so. The people of Kashmir have been given a separate and independent role, so to say, by our Constitution, and the people of Kashmir have been allowed to play that independent and separate role. And by playing that independent and separate role, it is the people of Kashmir who have willingly and voluntarily come to share in our joys and sorrows, to share in the fate of India. Now, if that fact is kept sight of, then we have to also admit that we cannot deal with the people of Kashmir in the same manner, the Government of India cannot deal with the people of Kashmir in the same manner

that they can deal with, say, the people of other States of the Indian Union.

Madam Deputy Chairman, we must regretfully notice that this separate status, which was given to Kashmir both by the Constitution, and also tacitly and expressly when the Kashmiri people were allowed to set up their Constituent Assembly, this separate status, we are sorry to note, is being eroded into, day by day, year by year, and we are finding that the sovereignty which was given to the people of Kashmir, a part of which the Kashmiri people surrendered to us no doubt, but still the other part remained with them, we are finding that this other part is now being eroded into by

श्री निरंजन वर्मा : अपने योग्य मित्र
भाई चटर्जी से मैं एक बात जरूर पूछना
चाहूंगा। काश्मीर की एक विशिष्ट स्थिति
है वह यह बतला रहे हैं। इन्स्ट्रुमेंट ऑफ
एक्सेशन पर हरि सिंह जी वहाँ के महाराजा

थे उन्होंने पूरी तरह हस्ताक्षर करने की तैयारी
की थी। और क्या किये? उन्हें
तथ्य मालूम है कि कांग्रेस की ताकतों ने
ही हरि सिंह जी को इस बात के लिये विवश
किया कि जैसे श्री रियासतें इन्स्ट्रुमेंट ऑफ
एक्सेशन पर हस्ताक्षर कर रही हैं उसी
प्रकार वे न करके कुछ अधिकार वहाँ के लिए
सुरक्षित रखें।

SHRI A. P. CHATTERJEE: Madam Deputy Chairman, something also has happened after the Instrument of Accession. The Hon. Member, Mr. Varma, has put that question to me about the Instrument of Accession. But we must know also that the Instrument of Accession is no longer the last word on the State of Kashmir. After the Instrument of Accession article 370 of the Constitution has been enacted. After the Instrument of Accession the Constituent Assembly of Kashmir sat and the Constituent Assembly adopted a Constitution for Kashmir. Of course, I have not been able to scrutinously read the Constitution that they gave to themselves—I use the words deliberately—the Constitution that the people of Kashmir gave to themselves. It was not given to them by the Indian Government or the Indian people. I have not yet scrutinously read that Constitution. But it is quite clear that apart from what they had surrendered to the Indian Government by their own Constitution we cannot take anything more from the people of Kashmir and if we take anything more then that will be political robbery, I should say. And I must say with regret that this political robbery is being committed day after day, year after year and for some reason or the other we are ending their autonomy, the strongly entrenched autonomy of the State of Kashmir. That is being eroded into through different legislative

measures that have been brought in both the Houses in order to take away the powers and authorities which the Kashmir people by their Constitution kept for themselves and which we are now, shall we say, by force of arms, taking away from them. Who does not know, Madam Deputy Chairman, what is the evil fruit of thus tampering with the wishes of the people of Kashmir ? We no doubt clamped inside the jail Sheikh Abdullah—Sher-a-Kashmir, the hero of Kashmir, but for whom Kashmir would never have integrated with India. Let us have the generosity and let us have the boldness to admit it. If it were not for Sheikh Abdullah, Kashmir would not have come to India. That is quite clear. We should have the honesty to admit that. And we should have the honesty also to admit that if it were not for that man Kashmir would never have been secular. Sheikh Abdullah was there up to 1953 when he was put in jail.

श्री निरंजन वर्मा : आदरणीया, एक प्रश्न फिर मैं पूछना चाहता हूँ कि इंस्ट्रुमेंट आफ एक्सेशन पर हस्ताक्षर करने के लिये विधान के अन्तर्गत क्या प्रजा को अधिकार था या केवल महाराजा को अधिकार था और अगर महाराजा को अधिकार था तो शेख अब्दुल्ला की कृपा से ही इंस्ट्रुमेंट आफ एक्सेशन लिखा गया ऐसा हमारे मित्र कैसे मान रहे हैं ?

SHRI A. P. CHATTERJEE: Madam Deputy Chairman, it is no use ignoring this fact, that in 1947 or thereabout, when Kashmir acceded to India if it were not for the forceful popular mass movement which was led by Sheikh Abdullah at that time, it would not have been possible for the Prince of Kashmir to have integrated Kashmir with India.

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श्री शीलभद्र याजी : चटर्जी साहब, उनकी बात को आप इवेड कर रहे हैं, उन्हें आप जवाब दीजिये ।

श्री निरंजन वर्मा : उस समय छोटी अवस्था में होंगे ।

SHRI A. P. CHATTERJEE: Madam Deputy Chairman, what I am submitting before this House is this. I am really on this point, that because of this political robbery which I referred to a little earlier, that is being committed by the Indian Government, we are in a strange situation in Kashmir. I was told, Madam Deputy Chairman, that till 1953 the affairs of Kashmir were being run in a particular way. After 1953 you put Sheikh Abdullah in jail and since 1953, for about 15 years that have gone by you have not been able to solve the problem of Kashmir. Have you solved that problem ? No. Why not ? Not because somebody was inside or outside jail. That is not my point. I am not a person who believes in the cult of personality. I do not say that everything will be tilted, that the situation will be changed just because a man is either inside or outside the jail. The point is this. You have not been able to solve the problem of Kashmir because you have gone back upon all the principles which were laid down by you when the Kashmiri people acceded to India. It is not as if the Prince of Kashmir acceded the State to India. It is the people of Kashmir who acceded the State to India. The people of Kashmir would not have wanted the State to accede to India at that time but for the leadership of Sheikh Abdullah. This event would not have happened if the people of Kashmir had not been willing to accede to India by virtue of what they had passed in their Constituent Assembly. But for that no amount of Instrument of

Accession, no amount of coercion on the part of the Prince of Kashmir would have solved the problem. The point is, the people of Kashmir came to India. They willingly acceded to India. The Maharajah apart, they came to us because we secured for them certain principles and we declared certain principles.

Madam, the disease in the body politic of Kashmir is there because we are not giving up and we are surrend'ring those principles which we declared at that time.

THE DEPUTY CHAIRMAN : You must wind up now.

SHRI A. P. CHATTERJEE : I am just finishing. We are surrendering those principles and we are not prepared to respect the autonomy which we said would be given to the people of Kashmir. We have not respected the principle of secularism which, we said, would be scrupulously observed as far as the rest of India is concerned and as far as the Kashmiri people are concerned. And, Madam Deputy Chairman, because of these things, we are facing a tremendous, a horrifying spectacle that we saw in the last elections where more than 200 nomination papers were rejected arbitrarily, whimsically and capriciously. That is how democracy has been functioning in the State of Jammu and Kashmir. I am only submitting before you and before hon. Members of this House that if you want to solve the problem of Kashmir, no amount of military force stationed there will solve it. After all, a people cannot be subjugated by the sword, or by arms. You have to win over the Kashmiris and if you want to win over the Kashmiris, you must win them over on the basis of these principles which you declared and on which alone they came to us. These principles

have to be reaffirmed and not the principles which I am hearing with some amount of dismay, reiterated here by some Members of this House. I have great respect for Shri Niranjan Varma, but I heard with some amount of shock, with some amount of consternation, what he was saying with regard to Kashmir. Let us not go back upon our promises. Let us not betray our principles. Let us give to the Kashmiri people their due, their birth-right; the birth-right of their autonomy.

SHRI MOHAMMAD YUSUF SALEEM : Madam Deputy Chairman, to my mind, the scope of the debate on this Bill should have been a very limited one. But unfortunately most of the hon. Members thought it proper to spend their time in arguing on irrelevant points, mostly politically and not to the point. Madam, the only question and the most relevant question to be answered is, whether by introducing this Bill, that is by enlarging the jurisdiction of the Supreme Court under article 138 of the Constitution the intention of the Government of India is to strengthen democracy or to weaken democracy in the State of Jammu and Kashmir. It is a well-established principle, Madam, that an independent democracy can only prosper where there is a strong and independent judiciary. The intention of introducing this amending Bill is to take away the jurisdiction of the Election Tribunal to try election petitions and to give jurisdiction to the State High Court and if any party finds himself aggrieved by the order of the High Court, he may have the opportunity to reach the highest court of the country, namely, the Supreme Court.

Madam, therefore arguing that the intention of bringing this Bill is to weaken democracy in the State of

Jammu and Kashmir is not well-founded and is not correct. I will not take much of your time except to touch upon certain points which have been raised and which are relevant so far as this Bill is concerned.

The hon. Mr. Bhupesh Gupta said in his speech that many nomination papers were improperly rejected by the Returning Officers in that State. As has been brought to the notice of the House many election petitions are pending in the High Court and therefore it will not be proper for me to say anything regarding the merits or demerits of the petitions which are pending in the High Court. All those persons who found themselves aggrieved by the orders of the Returning Officers have already filed election petitions and they are pending but in order to satisfy the House I would, with your permission, like to give some facts and figures because those facts and figures of the elections in the State of Jammu and Kashmir furnish sufficient proof that democratic ways and practices have taken deeper roots in the State of Jammu and Kashmir. The electoral roll in the State of Jammu and Kashmir in 1962 comprised 10,21,698 voters whereas this number in 1967 was 13,67,264 and excluding the uncontested seats in Parliament and Assembly constituencies 59 per cent of the votes were polled. This was the percentage of voting in the State of Jammu and Kashmir. So far the number of contestants was concerned, the number of candidates who contested the election for the four parliamentary seats was 30. Twenty-one seats in the Kashmir Valley were contested by 56 candidates and thirty seats in Jammu were contested by 129 candidates. I have quoted these figures in order to satisfy the House that the elections were held and conducted in the State of Jammu and Kashmir on a democratic basis and

there was no complaint whatsoever regarding the genuineness of the elections which were held under the supervision of the Election Commission.

Now, regarding the rejected nomination papers I would say a few words and then conclude my speech. Not only the nomination papers of the National Conference candidates but nomination papers of the candidates of all political parties were rejected on account of some legal defects. These defects had been overlooked and disregarded by the candidates. So far as allegations regarding rejection of Opposition nominees are concerned, out of 21 uncontested returns four were in constituencies in which the National Conference nominees made voluntary withdrawals well before the day of scrutiny.

श्री निरंजन वर्मा : माननीया, मैं मंत्री जी से एक प्रश्न पूछना चाहता हूँ—एक क्लेरिफिकेशन है। यह तो आप स्वीकार करेंगे कि पूरे देश में जितने प्रान्त हैं, प्राविसेज हैं, उनमें किसी में भी इतनी ज्यादा संख्या में नामिनेशन पेपर्स रिजेक्ट नहीं हुए हैं जितने कि आपके काश्मीर में हुए, क्या यह बात सही है ?

SHRI MOHAMMAD YUNUS SALEEM : It may be correct. I have not got the figures about the other States as to how many nomination papers were rejected in different States but my point is that the nomination papers which were rejected were rejected on different grounds and I was going to make my submission on these points only. If my hon. friend could bear with me for a few minutes I was going to say the grounds on which the nomination papers were rejected by the Returning Officers. The figures indicate that two of the rejected candidates were under age. Madam, everybody is aware that a certain age is prescribed for the candidates

[Shri Mohammad Yunus Saleem.] to contest the election. Two of them were under-aged. Nine were in Government employment, their resignations had either not been tendered or had not been accepted and eight had failed to furnish the required security deposits. Twentyeight candidates are reported to have been rejected because the Returning Officers were satisfied that they were holding subsisting Government contracts. Several nominations were rejected because the candidates had failed to file the oath of allegiance to the Constitution. These are facts not difficult to be verified and there was really no room for hasty conclusions or harsh pronouncements about these rejections which have the effect of sullyng the reputation of the Election Commission. It is common knowledge that for the scrutiny of nomination papers a day is fixed and the contesting candidates appear before the Returning Officer. They raise objections and if such objections are raised they are expected to produce evidence in support of their objections. If the Returning Officer is satisfied that the objections raised regaining the validity of a nomination paper are based on good grounds and supported by documentary and oral evidence, the Returning Officer will exercise his judicial discretion and either accept or reject the nomination paper.

If the nomination paper is rejected wrongly by the Returning Officer, it is open to the candidate, whose nomination paper has been rejected, to file an election petition before the High Court and if he establishes his case and satisfies the Court that his nomination paper was wrongly rejected by the Returning Officer, obviously his election petition would be allowed and the election set aside. Therefore, it would be premature, at this stage, to express any opinion

regarding the merits of these election petitions, which are pending before the High Court, as I said earlier. So far as the merits of the Bill are concerned, I submit there are valid grounds for it to receive the support of the House and I commend the Bill for the acceptance of the House.

THE DEPUTY CHAIRMAN : The question is :

"That the Bill to supplement the Jammu and Kashmir Representation of the People Act, 1957, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN : We shall now take up the clause by clause consideration of the Bill.

Clauses 2 and 3 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI MOHAMMAD YUNUS SALEEM : Madam I move :

"That the Bill be passed."

The question was proposed.

SHRI NIREN GHOSH (West Bengal): Madam, now he comes from Hyderabad and is talking about Kashmir. He does not know anything about Kashmir and perhaps some brief has been given, to him. *(Interruptions.)* You go to Rishikesh and find a solution there. So, it is better for you to keep silent. Parrot-like lie is saying something. It does not help anybody. The entire country knows that for other reasons we have so long, for it number of years, kept silent about it. We kept silent deliberately . . .

SHRI SHEEL BHADRA YATEE : Why?

SHRI NIREN GHOSH : I personally know it, It was because there

was a troubled situation and the Indian Government would be embarrassed. This and many other things were there. So, we were asked to keep silent about it at that time. That was long ago. I personally went to Kashmir. I know that in 1959 there was no election whatsoever. Whoever stood up as a candidate, he was suppressed as in a military government. They ransacked the villages and all those things were there. Every body knows it. It is no use talking that there is any democracy there. It is all bogus and bunkum. I would like to say one thing. The Constitution of Kashmir, that was framed at that time, is far more progressive compared to the Constitution of India. It is the only Constitution under which landlordism has been abolished without compensation. You cannot do it in India. It has been done in Kashmir because it was a separate Constitution. Though landlordism has been abolished, the Kisan* have not got their land. That is another thing done through bribery and corruption of the officers, etc. Other things are involved. But there is no doubt that the programme of new Kashmir and the Constitution was sought to give expression, to a certain extent, was far more democratic and progressive compared to the Constitution of India. Now, that is not the only question.

The demand for integration means that you curtail all their rights. That is integration. I have yet to learn the meaning of integration. It is no use, on the part of the Government to come here to get this Bill passed and say that justice has been done. The election that was fought was a rigged election. It was a bogus election. It was a false election. It was not anything else. Now, you want the Supreme

Court to hear the appeals. You want to whitewash the whole affair. Things cannot be whitewashed in this fashion. Things are pretty complicated and pretty beyond your comprehension, or the hon. Minister sitting there. So, I would like to say that there must be a mid-term poll in Kashmir. Not only that. Immediately the election should be scrapped altogether. In order to ensure that the election is fair a Parliamentary Committee, consisting of all Parties, should go there. Under their direct supervision the election should be held, in order to see that all those things are not there. At least democratic practices should be observed and civil liberty must be ensured.

Now, I would like to say that it is known to everybody that at one time a formula for the solution of Kashmir was evolved. Pandit Nehru was present, Mirza Afzal Beg was present and then Sheikh Abdullah was there. There was another non-official person closely associated with Pandit Nehru. But that has been put into cold storage. The Government of India do not want to go into that question. It does not want to settle the Kashmir question. It is scheming for the so-called cry of integration. That is not integration. That might be disintegration. That is what I would say. Kashmir should be given full autonomous status within the Indian Union. Likewise all the States in India should be allowed to frame their own Constitution, subject to the minimum reserved powers with the Centre. That should open the way. The only thing to do in the case of Kashmir is to give it the status of full autonomy. Scrap the election. Have new elections. Then the real representative Assembly can emerge. It is a fake Assembly.

It is a robbers' Assembly. It is a bogus Assembly which is there at present. Some sort of trade agreement should also be there with Kashmir, because the Bawalpur road is very important for the timber industry and all these internal complications arise out of this.

THE DEPUTY CHAIRMAN : That will do.

SHRI NIREN GHOSH : The Government should give fresh thinking to the entire subject. Trying to whitewash Kashmir elections will not do. It is nothing but bogus. Mr. Sadiq is unrepresentative. Bakshi Ghulam Mohammad is unrepresentative. Only a new and free election can give us a real representative Assembly and then with that Assembly the Government should enter into negotiations and settle certain things. It should have full autonomous status within the Indian Union. That perhaps can open the way for a solution of the Kashmir problem and end this tragic uncertainty.

SHRI BHIRPESH GUPTA : It was not my intention to speak on the Third Reading, but having listened to the speech made by the hon. Deputy Law Minister I am tempted to say something. He read out something to impress us that the rejections of the nomination papers were all valid and that we could wait till the Supreme Court gave its opinion. Our contention is how so many nomination papers had been rejected in that particular State. They are not particularly unfamiliar with the ways of our elections or the procedural laws of elections. They are as much aware of it as the people in any other part of India. Therefore, it needs a much more convincing explanation than the one he has offered. Significantly enough he said that the Returning Officers

were satisfied and so they were re-elected. No one would say that they were dissatisfied and hence they were rejected. Surely, they were satisfied. Whether their satisfaction is after that particular fake statement remains to be seen, but on the face of it, it does appear that something went wrong basically.

In this connection, finally, since we are passing it, I must also say one or two things. Sometimes I find some hon. Members opposite are very touchy the moment we mention Kashmir. The moment we mention something they get very touchy about it as if we have committed some blasphemy by uttering some suggestions with regard to the situation, in Kashmir. By that way you cannot cover up your errors and mistakes, acts of omission and commission of which, this present Government is guilty.

My friend, Mr. BK/P. Sinha he is not here. I do not know whether he has gone to the Supreme Court or perhaps he is having his tea -he gave an argument as if we were asking for more interference. Not at all. We are asking the Government of India to face up to the reality and help in setting matters right. Things are not well. I began by drawing an analogy that something is wrong in the State of Jammu and Kashmir.

Here in this connection I must again say something about our attitude towards Sheikh Abdullah. This is very very important. You cannot change the situation at least in the Valley by discounting his personal factor or the political trend he represents. We have lived with him. The fact that we had put Sheikh Abdullah in prison for a long time does not mean that we have done away with the problem. Not at all. Madam, I would impress

upon this House and those opposite—specially those who are sitting in opposition to us here, we are in opposition technically, but those who are sitting there—they must understand their responsibility. You have failed to create an impression on the minds of the people in the Valley at least, that is very very clear. You should recognise it as a fundamental fact and then proceed on the basis of truth and not on the basis of certain illusion or some wishful thinking. As far as Sheikh Abdullah is concerned, I must say, as you know very well, in many matters we do not share his views. It is quite well known. Many of you do not also share his views in certain matters. At the same time we had been pressing for his release—why? First of all on purely humanitarian grounds and of course on political grounds that he should not be detained without trial. That itself has complicated the situation. Now that he is out what should be our approach? "We have stated let us think of the problem from the point of view of finding a solution. In 1964 when he was out it seemed Shri Jawaharlal Nehru was engaged in very long and elaborate discussions with him with a view to finding some kind of solution. He did not shelve the issue or brush aside the problem. As you know, it was in the midst of these conversations or discussions with him that Panditji fell ill and ultimately died, passed away. Now that Sheikh Abdullah is out, we should think of our approach. First of all it is wrong to have a threatening approach towards him. Even if you criticise his speeches—some of them are liable to be criticised—do it in a manner which is not provocative. If you think you could be effective, try to be effective instead of making provocative criticism, because the moment you threaten him

he is not intimidated by such threats and people in the Valley feel upset about it and misgivings grow, and the possibilities of settlement or even discussion with him become less, you must realise it. This is number one point to consider.

Secondly, you have released him. Take this fact in good grace in political life. If Sheikh Abdullah says something fundamentally wrong or with which we do not agree, let us not assume a posture of threat. Let us debate with him publicly and say where he is wrong and where we think we are right. Argue with him. That is how you can do it. In certain countries even stronger statements are not criticised in the manner in which it is done here. I am surprised that some influential sections are more or less developing the same type of criticism or approach as they used to have some years ago. It will not do. It is possible that we will differ, it is possible there would be need for criticism, but let us do it in a manner in which we can advance what we think is right. That is the idea.

Thirdly, in this connection the Government of India should ponder over this matter. Government of India seems to have no initiative. It is watching. It is not a matter for the Home Ministry to settle the problem. They are saying, "We are keeping a close watch on Sheikh Abdullah". First of all it is a foolish Government. If you are keeping a close watch, why do you say such thing? I would not like, I make it absolutely clear, this kind of close watch business. But having done that, they advertise to the whole world. Just because Sheikh Abdullah has certain different views or some other thing, they have to give out, "We are keeping a close watch". Is that how you should treat him as if he is surrounded by watchers and other

[Shri Bkupesh Gupta]

people of the Central Intelligence Department or the C.B.I.? That is not how you try to build bridges for consultations and discussions. Anyhow these are stupid utterances, but our Home Ministry is quite capable of stupidity with all its high potential of intelligence and so on. The Central Government should develop a proper attitude. The Prime Minister should herself—I do not know what she is thinking on it—but she herself should take the initiative in this matter. This is an important issue and it is an issue which has a larger bearing, a wider significance. Obviously you understand it, I believe I need not go into that. It is very very essential. I think leaders of different political parties should also apply their mind to the problem because it is an important problem and we must try to find a solution. Government has a special responsibility but leadership, democratic leadership of the country as a whole is called upon to display wisdom, vision, tolerance and patience in this matter so that at least the maximum possible effort could be made, now that he is out, for finding a solution.

As far as communal factors are concerned I do not wish to say very much. Two trends are developing in Kashmir. One is the Plebiscite Front trend which is under the influence of imperialists also. Some elements certainly are putting forward all kinds of proposals which are very objectionable and creating difficulties. We know the Plebiscite Front and some of their ways of doing things. But we have to take into account the people of Kashmir. Then we have got our friends of the Jan Sangh. They are trying to create another type of frenzy there. As you know, the incidents that took place there some time ago, our friends were very largely responsible for them

Mr. Verma criticised me quite a lot for making a simple remark about Delhi

THE DEPUTY CHAIRMAN: Please wind up.

श्री निरंजन वर्मा : जन संघ की बात काश्मीर में कर रहे हैं।

SHRI BHUPESH GUPTA : You are introducing aggressively communal politics into Kashmir, please understand it. In the incident that recently had taken place you wanted to show your hand

श्री निरंजन वर्मा : आप अपने नाम से कम्युनल शब्द निकाल दीजिये और केवल और नाम रख लीजिये क्योंकि श्री भूपेश गुप्त कम्युनल नाम है।

श्री भूपेश गुप्त : कम्युनल नहीं है, कुछ नहीं है, हिन्दू हो जाता है यही आइडिया है।

THE DEPUTY CHAIRMAN : That will do. Please take your seat.

SHRI BHUPESH GUPTA : What was that? A girl married somebody. We find so many people marrying so many, or not even marrying. A girl married somebody. Over that such a fuss was made as if heavens had come down and you demanded so many things. Some police people may have behaved stupidly

SHRI OM MEHTA (Jammu and Kashmir) : None married you.

SHRI BHUPESH GUPTA : I hope Jan Sangh will not intervene in a comparable situation.

श्री निरंजन वर्मा : जनसंघ ऐसी छोटी छोटी बातों पर ध्यान नहीं रखता।

SHRI BHUPESH GUPTA : Weil, she may be a Pandit's daughter. But, suppose she likes a Muslim, can't she go with him? Your Hindus, I find . . .

श्री निरंजन वर्मा : हमारा दिल बहुत बड़ा है इन मामलों में ।

SHRI BHUPESH GUPTA :.....go to America and marry Americans, go to the United Kingdom and marry English women. So many of them do without even finding out whether those women have husbands. The Jan Sangh came into the picture. I do not wish to say very much. I only say, develop a correct approach. Communal politics has to be avoided. Now, the Jan Sangh should not be allowed to grow in the State of Jammu and Kashmir. It is a force of communalism.

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As far as the Plebiscite Front is concerned, I have said.

श्री निरंजन वर्मा : आदरणीया, अगर हमारे मित्र कभी भी—आज से लेकर एक वर्ष तक पढ़ने के बाद—'कम्यूनल' की डेफिनीशन कर दें तो हम आपकी बहुत प्रशंसा करेंगे ।

SHRI BHUPESH GUPTA : The Jan Sangh is asking me to define communalism.

श्री शीलभद्र याजी : डिप्टी चैयरमैन महोदया, बिल बिलकुल सीधा सादा है । वेसूरी गृहनाई का बाजा जो विरोधी लोगों ने बजाया उससे उन्होंने पाकिस्तान को मँटर तथा मसाला दिया और शेख अब्दुल्ला के हाथ मजबूत करने की बातें कहीं यह किसी ने नहीं बताया कि हाई कोर्ट, सुप्रीम कोर्ट में चुनाव याचिका की अब सुनवाई होगी(इन्ट्रप्शन्स)

SHRI BHUPESH GUPTA : It is utter nonsense.

श्री शीलभद्र याजी : नीरेन घोष की स्पीच हुई, भूपेश गुप्त की स्पीच हुई । डेमोक्रेसी में ये लोग विश्वास नहीं करते, लेकिन डेमोक्रेसी के नाम पर उन तत्वों को, जो काश्मीर को

हिन्दुस्तान से बाहर ले जाना चाहते हैं, इन्होंने मँटर दिया । यह बड़ी शर्म की बात है, अफसोस की भी बात है कि इन्होंने ऐसा कहा ।

श्री निरंजन वर्मा : आप इनको क्षमा कर दीजिए ।

श्री शीलभद्र याजी : हम किसी को भी क्षमा नहीं करते हैं और न करने के लिए तैयार हैं, लेकिन डेमोक्रेसी में यह सब चलता है और चलेगा । मैं आपके जरिये सरकार से यह निवेदन करना चाहता हूँ कि वे श्री भूपेश गुप्त और श्री नीरेन घोष की बातों पर ध्यान नहीं देकर जम्मू तथा काश्मीर में श्री सादिक सरकार की मदद करें ।

श्री भूपेश गुप्त : के० बी० सहाय को भेज दीजिये ।

श्री शीलभद्र याजी : अजय मुखर्जी भी गए, के० बी० सहाय भी गए ।

(Interruptions)

I will not discuss with you. Take your seat please. अभी जो विधेयक पर बोले उन्हें यह बताना चाहिये था कि कहाँ पर विधेयक में त्रुटि रह गई है । हिन्दुस्तान के साथ जो एक्सेशन महाराजा का हुआ वह फाइनल हुआ लेकिन कुछ ऐसी चीजें रह गई जो बड़ी खतरनाक हैं । सारे हिन्दुस्तान के कांस्टिट्यूशन में लिखा हुआ है कि कोई भारतीय कहीं भी जाकर रह सकता है, जमीन खरीद सकता है तथा बस सकता है लेकिन अभी तक काश्मीर में इस तरह की व्यवस्था नहीं है । इसलिये जो कम्यूनल चीज हुई वह वहाँ के महाराजा के वक्त की चीज है । सरदार पटेल ने कहा था कि कुछ 25 लाख लोगों को वहाँ बसाओ लेकिन शेख अब्दुल्ला नहीं माना, लेकिन शेख ने दूसरों को बसाया जो सिक्यांग में रिजोल्ट के बाद आए । आज गवर्नमेंट आफ इंडिया इस तरह की व्यवस्था करे कि कोई भी भारतीय वहाँ जाकर बस सकता है, मकान बना सकता

(श्री शीलभद्र याजी)

है, तभी नेशनल इंडीपेंडेंस होगा और सही मानों में होगा और तभी इस तरह के तत्व जो प्लेबिसिट फ्रण्ट के हैं उनका मुकाबला किया जा सकेगा, न कि आर्मी के द्वारा। इस विधेयक का स्वागत करते हुए, हम गवर्नमेंट आफ इंडिया से दरखास्त करते हैं कि सारे हिन्दुस्तान में, नागालैंड में, नेफा में रहने की, जाने की आजादी हो—जम्मू और काश्मीर का ही सवाल नहीं है—जो कोई जहां चाहे बस सके, तभी नेशनल इंडीपेंडेंस हो सकता है। इन शब्दों के साथ मैं इस विधेयक का स्वागत करता हूं और इन लोगों ने जो कहा है उसका विरोध करता हूं।

श्री निरंजन वर्मा : मैं भूपेश गुप्त की तरह सी०आई०ए०, जनसंघ और विडला जी पर नहीं बोलना चाहता—उनके लिये तो यही तीन विषय हैं बोलने के लिये।

आदरणीया, मैं मन्त्री जी से एक प्रश्न पूछना चाहूंगा। उन्होंने यह बात कह कर कि विरोधियों ने जितनी बातें कहीं इर्रैलेवंट हैं अपनी जान छुड़ा ली। रिप्रेजेंटेशन आफ पीपुल्स एक्ट जो भारतवर्ष का है उसमें यह है कि जब कभी कोई नामीनेशन पेपर भरा जाता है तो उसमें रिटनिंग आफिसर सहायता देता है और बताता है कि कहां कहां पर गलती है। तो जम्मू और काश्मीर के रिप्रेजेंटेशन आफ पीपुल्स एक्ट में इस तरह की सहायता देने का उल्लेख था या नहीं था? अगर था तो वहां के रिटनिंग आफिसर ने वहां के कैंडिडेट्स को यह सहायता क्यों नहीं दी?

SHRI MOHAMMAD YUNUS SALEEM : Madam, I assure the hon. Member that all the possible assistance was offered to every candidate; assistance which was permissible within the rules, and there is not complaint whatsoever on behalf of any of the candidates that the assistance which

they expected from the Returning Officer was denied in any of the constituency in Jammu and Kashmir. The hon. Member will not be able to cite one instance on this subject. That is the reply to the question that he put.

Now, one word regarding the rejection of the nomination papers. I have sufficiently tried to make it clear. Madam, the position was this that one significant aspect has not received the serious consideration of the House, namely that these nomination papers in the State of Jammu and Kashmir were mostly rejected in the District of Anantnag and other places which were the strongholds of the Congress; the main opposition party, that is the National Conference, had no hold there; actually, it was non-existent in those places. Therefore, they had adopted this strategy that they set up candidates who were either having some subsisting contracts with the Government or were Government employees or were otherwise disqualified to contest the election, so that they might be able to carry on propaganda against the Congress that wholesale nomination papers were rejected. The figures that I have given are sufficient to establish that in all the places where the National Conference wanted to contest the elections, they did, and the success of Bakshi Gulam Mohammad, who was the leader of the National Conference and who is occupying a seat in the Lok Sabha, is a living proof that the elections in Jammu and Kashmir were fair and free.

With this submission, I request that the Bill be passed.

THE DEPUTY CHAIRMAN : The

question is:

"That the Bill be passed." *The motion was adopted.*