

Abdullah. It has been published not by any propagandist organisation. It has been published by the Information Department of the State of Jammu and Kashmir. It is headed "The Case for the Abolition of Hereditary Monarchy". On page 3 of this booklet, it is said—I am reading for the benefit of the House :

" Even a fleeting glance at the history of Arabia will bring out how this basic human right was vigorously put forth there. Prophet Mahommed raised the slogan of human rights and made the concept of human equality clearer. He protested against the selfish and other vested interests and placed before the world the principle of democracy. According to the Prophet, Islam recognises no considerations of dynastic lineage and the like which is no criterion for real greatness."

Islam does not recognise monarchy. Therefore monarchy in Kashmir should be abolished. But what about Chengiz Khan and Temurlane ?

MR. CHAIRMAN : It is now 1 o'clock. You can continue your speech after lunch.

## PAPER LAID ON THE TABLE

### REPORT OF THE JOINT COMMITTEE.

THE MINISTER FOR RAILWAYS AND TRANSPORT (SHRI LAL BAHADUR) : I beg to lay on the Table a copy of the Report of the Joint Committee, including Minutes, Appendices and Debates in the House, on payment of salary and allowances to, and abbreviations for, Members of Parliament.

[Paper placed in the Library, Index No. IV C (b) (132).]

MR. CHAIRMAN : The House now stands adjourned till 3-30 p. m.

The Council then adjourned for lunch till half past three of the clock.

The Council reassembled after lunch at half past three of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI S. MAHANTY : Mr. Deputy Chairman, before the House rose for lunch I was just dealing with the abolition of monarchy which is an item in the Agreement and what I was intending to present before the House was that though in principle it was unexceptionable, though I do not hold any special brief for monarchy..... But, Sir, there is not a Minister there. To whom am I talking ?

MR. DEPUTY CHAIRMAN : The Chief Whip is there.

PROF. G. RANGA : But the Chief Whip is not a Minister, Sir.

MR. DEPUTY CHAIRMAN : He will take notes and pass them on. Yes, go on.

SHRI S. MAHANTY : I am so much interrupted. Anyway my point at issue was though in principle it was unexceptionable, though I do not hold any special brief for monarchy in Kashmir, still what I pointed out was that this was motivated by theocratic ideas. Now, Sir, I will read out excerpts from a speech of Sheikh Abdullah in the Basic Principles Committee. Here, Sir, he says : "After the death of Prophet Islam, the Islamic history....."

PROF. G. RANGA : May I suggest Sir, that the House might be adjourned for a few minutes until some one of the Ministers is able to come here? Otherwise I do not think it is proper that the House should be asked to go on in this manner without anyone of the Ministers being here. It is not merely a debating society. We are one of the Houses of Parliament.

(At this stage the Leader of the Council entered the Chamber).

MR. DEPUTY CHAIRMAN : (To Shri Mahanty) Now, you go on. There he has come.

THE MINISTER FOR DEFENCE  
(SHRI N. GAPALASWAMI): Sorry,  
Sir.

SHRI S. MAHANTY : Sir, I am beginning afresh. Sir, before the House rose for lunch, I was dealing with one of item of the Agreement—the abolition of monarchy. What I intended to say was this that though in principle the abolition of monarchy is unexceptionable, though I do not hold any special brief for Maharaja Hari Singh or the Kashmir ruling dynasty, still what I intended to say was that this has been motivated by theocratic ideas. It has been said, Sir, that virtues are the bastards of our vices. That means those who are theocratic to their very backbone, they talk loudly about secularism. This can be illustrated from a speech of Sheikh Abdullah where he says : “ After the death of Prophet Islam, the Islamic history is the model before the world and what we find from it is that the very first Caliph who was appointed was not the son of Prophet, nor was he related to him ”. Therefore Sheikh Sahib wants to carve out a Sultanate. Let him do it by all means, but let him not raise the bogey of secularism.

Then, again, Sir, as regards the Instrument of Accession that was signed, there is another aspect to be considered also. The Instrument of Accession was signed by the Maharaja of Kashmir and he was also for the purposes of the article in the Indian Constitution relating to Kashmir, the Government of his State. The Government of the State means the persons for the time being recognised by the President as the Maharaja of Jammu and Kashmir. Now, that Maharaja has signed the Instrument of Accession. Now I would merely draw the attention of the House to Para. 8 of the Instrument of Accession wherein it has been said : “ Nothing in this Instrument affecting the continuance of my sovereignty in and over the State..... etc. ”. Therefore, now the position will arise that as soon as the Maharaja of Kashmir who was a signatory to this Instrument of Accession becomes a

*persona non-grata*, as soon as the Maharaja is removed, where will be the Instrument of Accession? Now I say the game is like this. As soon as the Maharaja is gone, the Instrument of Accession becomes merely a chit of paper and stands abrogated and after that the question of accession will arise afresh. Now, let me tell you frankly, without any delicacy, that Sheikh Sahib is after a very deep game. He is now trying to carve out, or to create by some artificial means Jammu into a Muslim Province. You know, Sir, in the meantime, out of Jammu, two Districts—Rajouri and Udhampur—have been carved out and they are designed to be integrated with Kashmir so that in the event of taking a plebiscite or ascertaining the opinion of the people, Jammu will present no difficulty.

Then, Sir, I fail to understand—and I hope the Leader of the House will be able to enlighten me on this point—why the Census Commissioner of India was not allowed to enter Jammu and Kashmir for census operations. Now it can be argued that Census does not come under the subjects for which Jammu and Kashmir has acceded to India. I invite the attention of the House to the Constitution (Application to Jammu and Kashmir) Order, 1950, item 72 of which says that Kashmir acceded to India over these items of elections to Parliament and the offices of President and Vice-President and Election Commission and item 94 of that Schedule says “ enquiries for statistics for the purpose of any of the matters aforesaid ”. Census was being taken for the purpose of having election ; enumeration was clearly related to election. Therefore it can be said that Jammu and Kashmir acceded to India in respect of these items also.

MR. DEPUTY CHAIRMAN : Time is up.

SHRI S. MAHANTY : Sir, I withdrew my amendment in response to the wishes of the Chair and I hoped that every Agreement, except Kashmir, was bilateral. I hope the Chair

will kindly allow me five minutes more because we are spending 25 crores.....

MR. DEPUTY CHAIRMAN : You go on. Time is up.

SHRI S. MAHANTY : Because of some special conditions prevailing there, the census was not taken in the State of Jammu & Kashmir and what are those special conditions? The great secular leader there was cooking up an artificial Muslim majority in the State. When I say it, I say it with full responsibility.

Then I come to another item of the Agreement—namely, citizenship. Sub-clause (5) of article 19 of the Indian Constitution clearly says : “ Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.” Therefore it cannot be argued by any stretch of imagination that simply to safeguard the interests of the people of Kashmir. Sheikh Abdullah is not acceding to Indian Constitution, so far as citizenship is concerned and is not going to declare the Indian citizens also as citizens of Kashmir. Sir, this baffles my imagination, if a Kashmiri can be our Prime Minister and if a Kashmiri can be our Home Minister who is also trying to bring Preventive Detention Act—that means detain us without trial—it baffles my imagination, Sir, why an Indian citizen cannot go there and...

SHRI N. GOPALASWAMI : May I point out that both the two Ministers to whom my hon. friend made a reference are Kashmiris only by courtesy. They happen to have that qualification just like anybody else—like my hon. friend Dr. Kunzru.

SHRI H. N. KUNZRU : Before 1947 we too were known as Punjabis in Kashmir and we could not purchase land there.

SHRI S. MAHANTY : I am being interrupted so much. I was dealing with citizenship. In the Agreement there is also another dangerous clause that those persons who had left Pakistan in or around 1947, whenever they come back, full privileges of citizenship will be extended to them. And that means they will be rehabilitated. I was making enquiries and I learnt that about 2 lakhs of people have moved up to Pakistan and those who have moved into Pakistan are now to be brought back. Let them come back. I have no objection. Let the privilege of citizenship be extended to them. But what is to happen to those persons who are living as exiles outside Kashmir? Sir, the time at my disposal is so short that I have to go to the next point and that is the question of fundamental rights.

MR. DEPUTY CHAIRMAN : Your time is already over.

SHRI S. MAHANTY : Yes, Sir, I come to the question of fundamental rights.

MR. DEPUTY CHAIRMAN : You have already taken three minutes more.

No more time can be given.

SHRI S. MAHANTY : Just five minutes more.

MR. DEPUTY CHAIRMAN : No, only one or two minutes, not five minutes.

SHRI S. MAHANTY : With regard to these fundamental rights, I may say that I am not very much interested in 40 lakhs of people or 83,000 sq. miles of territory. We have acquiesced in the partition of India. We have bribed, we have pledged and

[Shri S. Mahanty.]

mortgaged and we have lost the ancient seats of Dravidian civilization, Harappa and Mohenjadaró. We have sacrificed all that. I say, I can also acquiesce in the partition of Kashmir, if it comes to that, but I am not going to sacrifice the fundamental rights that have been promised to the people, just for the sake of these 83,000 sq. miles. The fundamental rights should not be left to be decided by the State, within its cognisance. That is dangerous. Sir, here is a publication "Does India defend freedom or Fascism in Kashmir". The statements in this booklet have not yet been refuted by anyone. It gives the information that in 1947 no less than 7,000 people belonging to different parties have been consigned to the prison in the valley. Sir, the security of State may mean anything under the sun. It may also mean the foisting of dictatorial rule.

SHRI N. GOPALASWAMI : What is the date of that publication ?

SHRI S. MAHANTY : It is May 1952.

AN HON. MEMBER : He wants the name of the publication.

SHRI S. MAHANTY : The name of the publication is "Does India defend freedom or Fascism in Kashmir".

AN HON MEMBER : Published by?

SHRI S. MAHANTY : Published by the Kashmir Democratic Union. And so what I am saying is.....

(Time bell rings.)

PROF. G. RANGA : Mr. Deputy Chairman, I agree with my hon. friend Dr. Kunzru when he expressed impatience at the U. N.'s failure to come to grips with the situation and come to some final conclusion. I think it is high time and now that my hon. friend, the Leader of this House, is soon going to Geneva he may tell them that there should be a date by which they should come to some definite conclusions;

otherwise thereafter, India would hold herself free to take whatever measures she would deem fit in this regard. Sir, my hon. friend Dr. Radha Kumud Mookerjee has already referred to the four alternative methods by which public opinion of the people of Jammu and Kashmir could be ascertained. I need not go into all those details. He mentioned referendum, plebiscite, election and representative conferences. I think we have already had a number of representative conferences. There was recently election also for the Constituent Assembly and more than that, the Constituent Assembly itself had met there and taken certain decisions and we should be able to take a firm stand on the decisions taken by the Constituent Assembly with regard to their accession to India and tell the world that we are going to stand by them and not going to allow any interference by the U.N. or anyone else.

That takes me to the other point, namely, that it is high time that we should consult our own constitutional experts and take the necessary steps to withdraw our own complaint which was placed before the U. N.

My friend Mr. Sundarayya for once found himself in happy agreement with what the Government has done in Kashmir. But he thought it fit to congratulate only the people of Kashmir as if there was some sort of a fight between the people of India or the rest of India on the one side and the people of Kashmir on the other, and the Kashmir people had run away with something which others in India were unwilling to concede, as if they were unwilling to concede the legitimate rights of Kashmir. I do not accept his assumption there.

Secondly, I have no objection to the removal of the Maharaja if the principle of hereditary succession is done away with. I am indeed glad that we have made some move in this regard in this State and I shall not be surprised if by this act of theirs, generous as it is considered by our Communist friends, the Government is found to have given a lead to the rest of the people. They

would realise what it is to put their hand in a hornet's nest. Monarchy should go and the heredity principle should go too and there should be Rajpramukhs only for five years. To these we have no objection at all. But the main point is whatever we may do in Kashmir is likely to create in India its repercussions and they should not be unhappy. That is the most important thing. The hon. Prime Minister was keenly conscious of this difficulty and that is why he was hard put to it to plead before this House how the Kashmir and Jammu situation is a special one. I agree with him and I congratulate him also upon having convinced us. At least he has convinced me both by his speech here and by the speech he made in the other House. It is a special problem. It is not good for the rest of India to draw conclusions from Kashmir, because Kashmir is something in regard to which the whole of India has got to adopt a special attitude. It is a small area with a very small population, but holding a strategic position. Four great powers are there interested in that area, including ourselves; and the power in which my friends of the Communist Party are so much interested is itself very much interested in Kashmir. I shall not be surprised, Sir, if within the frontiers of Kashmir, within the realm of Kashmir, within the politics of Kashmir, my friends were to be found to have a big handle. There was a time when they put out the slogan "Azad Hyderabad." Similarly.....

**SHRI P. SUNDARAYYA :** No, we have never put up that slogan of "Azad Hyderabad". It is entirely wrong to say that.

**PROF. G. RANGA :** I know it was raised. My hon. friend says it is entirely wrong, but I say it is not wrong. It is my understanding of his party's position. Now, others put out the slogan "Azad Kashmir" and Sheikh Abdullah also put his imprimatur on it for a time. It needed a lot of statesmanship on the part of Sardar Patel and

patience on the part of the Prime Minister in order to make him resile from that position and explain it away. All these things are there and, therefore, we cannot be neglectful of our duty. We have to be extremely careful. The utmost we can possibly expect, if the worst comes to the worst, is a Titoistic Kashmir and not a Stalinistic Kashmir.

Sir, having taken up this stand, I wish to suggest in all seriousness that it is high time now that we should recognise the special status of Jammu and Ladakh and for that reason we should try to give an opportunity to the people of Jammu and Ladakh separately to express their views as well as the people of Kashmir. Otherwise, if we are going to lump these three together, all of them would go the way that so many parts of Mother India had gone in the recent past, and I for one, I am not a Hindu nationalist nor am I a communist Stalin, but certainly I am an Indian patriot, do not want to lose all the three great, valuable and lovely bits of India if ever any such unhappy contingency were to arise.

Sir, the Prime Minister was talking about plebiscite—ascertaining the views of the public. According to him and according to me this State holds a special place in our own politics and I consider it absolutely necessary that we should recognise the special status. For that reason we should recognise the right of the people of Jammu and Ladakh valley to express their views by their own separate vote. My friend, the Communist Leader in this House, was not at all prepared to contemplate it. He was prepared to condemn all those people who think of any such idea as communalists. I am not prepared to agree with him. It is quite possible that there are more Muslims in Kashmir; it is quite possible that there are more Hindus in Jammu and it is also quite possible that there are more Buddhists in Ladakh valley. I am not bothered about it. There are all these three people grouped in each one of the three units and it is wrong, wrong especially for these people who

[ Prof. G. Ranga.]

claim to be ultra secularists to claim that it is communalism when we ask for the special privileges, not only special privileges, but the ordinary normal privileges of the people of Jammu and Ladakh valley.

Sir, then there is the question of the flag. I find much objection. If they fly our flag, we should be satisfied with it. If, in addition to that, they want to use their own flag, let them satisfy themselves. People have their own different values of things, different ideas. The Kashmiris do not dress as we do. Therefore, they may as well have two flags.

SHRI S. MAHANTY : They have got a new cap now !

PROF. G. RANGA : I do not agree with the representatives of India who have signed this agreement in regard to the emergency powers of the President. It jars on my ears and I am sure it must have jarred on the ears of my friend, Mr. Gopalswami Ayyangar who is such a constitutional purist, when he was reading that the President has got to get the concurrence of the Government before he does anything. I cannot understand it. I can understand if it is said that the President should consult the Government and then issue the Order. This thing is much worse: the President has already passed orders but these would not become valid until and unless the Constituent Assembly or may be the Parliament, concurs in this thing. This is too bad according to me and the sooner our friends are able to get this out, the better it would be for the dignity of our Constitution as well as to the State and that of the President.

Then, Sir, lastly, my friend Mr. Gopalswami Ayyangar is going to Paris.

HON. MEMBERS : Geneva.

PROF. G. RANGA : I am not happy. I have a lot of admiration for his persuasive capacity, for his generosity, gentlemanliness and decency. But that is a place where all these quali-

ties are lost. He went last time. I feel because he is one of the best of our gentlemen here in this country and yet that was a place where his qualities were not recognised. On the other hand, tables were turned on him. Sir, I would not wish to question his competence to go and represent us or negotiate on our behalf ; but, Sir, you have got to deal with people whose part we have known at the U. N. O. where we have gone as complainants and where we were turned into defendants. So, Sir, I would like to suggest that he should not think it beneath his dignity to arm himself with the best possible experts that India can possibly give and take them with him, keep in touch with them and, if possible, insist upon their being present at the conference table so that at any moment when points come up for discussion from the other side which are likely to create trouble, the experts would be able to advise him. Of course, the final decision would be his, but, nevertheless, the important point is that whatever agreement they may try to reach may be as provisional as possible so that it may be possible for him, later on to accept changes if this House and the other House were so minded. Thank you, Sir.

SHRI KARTAR SINGH (PEPSU):

Mr. Deputy Chairman, I am in full agreement with the hon. the Prime Minister, but there are certain things in the agreement which offend against the Constitution. To justify that this agreement on the ground that it does not detract from the principles of this Constitution is something which I cannot understand. My submission is that it would have been better and more generous on our part and, of course, we would have attracted the goodwill of the people of Kashmir also, if we had told them "In the Agreement, all the points that are referred to, although each one of them offends against the very basic principles of the Constitution, still, for your sake, we are making special provisions. We approve of your Constitution and we also say 'Yes' to all that you do."

I am trying to show you how each one of these offends against the Constitution. The first point is regarding land reforms. I am not going into the merits or demerits of all the points, however good they may be ; I am only telling you what the constitutional position is, while fully supporting and saying that we must, i.e., the House must, co-operate and agree to what the hon. the Prime Minister and the Cabinet and the Government has done. According to our Constitution, the position is quite clear that you cannot acquire land without paying compensation for it. What the compensation should be is quite a different matter. But, in Kashmir, we are told that one is allowed to have a certain acreage of land and that generosity has been shown that a landlord can retain so much. But the remaining property is to be taken away without paying any compensation. The question of generosity does not at all arise as it is not a case that the Government gives 23 acres of land to the landlord but the point on the other hand is that leaving 23 acres of land with the landlord, the rest of his land is being snatched or taken away from him without any compensation and that goes against the Constitution of India.

Then we come to the second point, about citizenship rights. This is divided into two parts in the agreement. The first is in regard to the people who are living in Kashmir and the other is with regard to acquisition of immovable property. Now, it is tried to be justified that this is in consonance with the fundamentals of our Constitution. My respectful submission is that it is not. In the Punjab and PEPSU, we had got a law that non-agriculturists could not buy land of agriculturists. In Kashmir it is said that provision was made in the State Laws long ago by the Maharaja so that Englishmen might not acquire property. Though Englishmen have left but now by the agreement provision is sought to be made, prohibiting non-Kashmiris from ac-

quiring immovable property. It is not only on acquisition of immovable property that there is restriction; there is also the limitation on employment of non-Kashmiris. Non-Kashmiris cannot be taken into service of the State. This also offends against the Constitution. The hon. Prime Minister has in his statement in regard to Kashmir dated the 24th July at page 14 observed as follows :

“ We have agreed and noted down this that the State legislature shall have power to define and regulate the rights and privileges of the permanent residents of the State more especially in regard to the acquisition of immovable property, appointments to services and like matters. Till then the existing State Law should apply.”

4 p.m.

If they can make a law that a non-Kashmiri cannot acquire lands or that he cannot be appointed to any post in the State, it violates our Constitution vide article 19 (e) and (f) and articles 15 and 16.

Another point about citizenship referred to in the agreement is that those Muslims who left for Pakistan in 1947 or earlier or afterwards are being invited to come to Kashmir. That again violates article 7 of our Constitution which provides that anyone who had left for Pakistan on 1st March 1947 ceases to be a citizen of India. Again on this point of citizenship, an invitation has been given to those people. What would be its effect ? People in large numbers, as the statement of the Prime Minister shows, had left for Pakistan. Now all those people are invited. There is one more aspect. What about the large number of people (refugees) who have been settled there in Kashmir ? Has the Government of Kashmir taken the responsibility of compensating and rehabilitating them ? Has the Government of India taken upon themselves the responsibility of rehabilitating them ? Therefore this clause again is against the Constitution (article 7) and the agreement has been made in which only one party has been favoured. What will be the lot of non-Muslims, 2 lakhs of people when Muslims from Pakistan come to

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India ? The Government of India should have come up with a definite programme on the matter that though in the case of others they have not taken any legal responsibility upto this time for compensating them, but in the case of non-Muslim refugees from Pakistan who have settled down and have been rehabilitated in Kashmir, in their case the Kashmir Government and the Government of India do take the responsibility of compensating and rehabilitating them. When you enter into an agreement with Kashmir for thousands of people to come, it is the duty of the Government to have first made this clear.

Similar is the case with regard to the head of a State. Articles 155 and 156 of the Constitution deal with that. The head of the State is appointed by the President in Part A States and in Part B States some sort of permanency is there for the heads of the States. But in the case of Kashmir neither of these is observed. Therefore it is a violation of our Constitution. Then comes the Fundamental Rights.

MR. DEPUTY CHAIRMAN : Your time is up.

SHRI KARTAR SINGH : Fundamental Rights have been violated. It has been already argued by many friends with regard to emergency powers how mercilessly the powers given under articles 352, 355 and 356 have been violated. So my submission is that they had declared in 1947 that they had become citizens of India and as such they i.e., the Jammu and Kashmir people have by virtue of article 12 acquired all those rights mentioned in articles 15 and 16. Though the agreement between the Government of Kashmir and Government of India could not be justified on grounds of its being in consonance with our Constitution yet I fully agree that what has been done is quite good under the circumstances. Therefore, I fully support the agreement.

SHRI S. N. MAZUMDAR (West Bengal) : On a point of order. There are representatives of Kashmir sitting in this House. I think the discussions will be helped if we listen to their views.

DR. ANUP SINGH (Punjab) : Sir, I wholly associate myself with the sentiments expressed in favour of the Kashmir Agreement. I take it that the discussions were initiated with a view to removing some doubts and confusions. It is quite obvious that both participants are quite happy and satisfied with the agreement i.e., the Government of India and the leaders of Kashmir but unfortunately there are still lingering doubts in the minds of many. There are legal *pandits* who are very unhappy over the discrepancies between what has been accorded to other States and what has been given as a special favour to the State of Kashmir. There are political pamphleteers and I have one of these here entitled 'Nehru-Abdullah Pact—an unholy agreement and a fraud'. It seems to me that all the assurances and the repeated statements of the Prime Minister are to the effect that Kashmir had to be treated as a special case and he catalogued the reasons. I need not enumerate them because the time at my disposal is short. Over and over again, that Kashmir is a special case has escaped the attention of the critics. So the first question I would like to put to those people who are very unhappy over the fact of special treatment being given is, are they willing to go as far as to suggest that the Government by some Machiavellian design deliberately improvised these political exigencies, the problem of Kashmir's invasion, the fact of the Kashmir's case being referred to U. N., the fact that there is tension in Kashmir right now and all these things and unless the *bona fides* of the Government of India was under suspicion, I would say that this argument why special treatment has been accorded to Kashmir should be put an end to. There is nothing to be gained by it.

SHRI B. B. SHARMA (Uttar Pradesh) : If it is not *bona fides* can we not question the wisdom of their action ?



DR. ANUP SINGH : I would like to refer very briefly to a few observations that have been made by the critics both here and outside. One of them has gone to the extent of saying that it is not Kashmir that has acceded to India but the reverse. The hon. gentleman over there also repeated it. Now, in all seriousness may I ask is this phrase merely meant to show that the speaker has some sense of humour? Are we really invited to believe that from now India's Foreign Affairs, Communications and Defence etc. will be looked after by the State of Kashmir and not the other way around?

SHRI S. MAHANTY : It seems so.

DR. ANUP SINGH : I don't think for a moment that this kind of exaggerated analysis and statements serve any purpose. Prof. Mookerji said that so far as we are concerned we should make it clear that the plebiscite is no longer an issue between India and outside but only between India and Kashmir. Speaking technically, that may be so. But what are we going to gain by it? The Kashmir Constituent Assembly has declared in clear terms that Kashmir has acceded to India. Sheikh Abdullah, on his way back, has made it very clear over and over again that so far as they are concerned they are with India, and one of their spokesmen in the House went to the extent of saying that even if India should decide to desert them, they were going to stay with India. That being the case, if and when the plebiscite does take place under the stipulated conditions which our spokesmen at the U. N. O. have made clear, I do not think we are going to gain anything by repudiating the pledges that we have made.

I will, just in passing, refer to our distinguished colleague here, Prof. Malkani, who said that although he agreed with everything that has been put in, yet he found that the spokesmen of Kashmir had not risen to the occasion, and that they had gained much more. They came to Delhi almost in the attitude of "put your signature here".

Well, I am willing to concede that the representatives of Kashmir may have gained some points which cannot be defended from the strictly juristic and constitutional point of view, but I would urge the House to consider that India today, having incorporated all the other States within the Union itself, having consolidated the Union, can, at a time like this, well afford to be generous. To those who are very unhappy and are perturbed over the concessions, I would say : If you wanted to gain some points this is not the time for it. India could have very easily stipulated the most stringent conditions on Kashmir when she went to the rescue of the people of Kashmir. That was the time when we could have been very strict ; that was the time when we could have got anything that we wanted. But at that time we were generous and noble and kind-hearted. We did not quibble about juristic subtleties and constitutional niceties, and our attitude was proper.

In the end, I would like to say that speaking for myself I feel that we should look at the agreement from a much larger perspective. We have gained enormously so far as the moral prestige of India is concerned. We claim and we have asserted that India is a secular State. If a State which is predominantly Muhammadan, with a population which is 95 per cent. Muhammadan, of its own free will, of its own accord, without any coercion whatever, proclaims that it is with India and not with Pakistan, that to my mind is an enormous gain. That, to my mind, is a gain which is infinitely more than the losses which I think are being exaggerated.

Lastly, I would say that as far as all this discussion about the agreement having ifs and buts and whereas and notwithstanding, is concerned, I think in due course of time—and I feel it is not very far off—these things will be forgotten. We are living in an age when great monarchs are being despatched to other countries uncereemoniously. About kings and Maharajas and Rajpramukhs we need not worry too much. Whatever decisions we may take, time itself will take care of them and their institutions. In the long run

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we have much more to gain by winning the confidence of the people of Kashmir. And that, I think we have done because we have been generous. Let us not try to go back on our good record.

JANAB M. MUHAMMAD ISMAIL SAHEB (Madras) : Mr. Deputy Chairman, I want to say few words on this occasion. Firstly we are grateful to the Prime Minister for having taken this House into his confidence and provided us with a clear and illuminating statement on the subject of Kashmir. That statement shows how a difficult and delicate situation can be handled in a statesmanlike and sympathetic manner so that happiness may be the portion of everybody concerned.

As has been pointed out by the Prime Minister, the accession of Kashmir was not in question. That was not the subject matter of the negotiations that took place between the representatives of the Kashmir Government and the representatives of our Government. Accession was already there, complete in law and in fact, as has been explained by the hon. the Prime Minister. Kashmir has been included in the Union of India and it has been dealt with by the Constitution of India. What has happened now is a translation into action of some of the provisions incorporated in the Constitution of India. That is all. What has happened now is the achievement of a closer relationship, a strengthening of the relationship that was already there. It does not mean that any new relationship has been brought into being. In future I am sure this relationship will grow still stronger and closer.

Sir, in this connection I only wish that our Kashmiri brethren did not make so much of the question of monarchy. Monarchy with autocracy in olden times was one thing. Now, in a free and independent India, in a democratic set-up, it is altogether different. There is really no substance in what you call Rajpramukhship or monarchy. It is only a shadow. They need not

have made so much ado about this shadow. I feel that they might have in this matter conformed to the practice that obtains in the rest of the country. In another matter also, they might have conformed to the practice that is followed in the rest of the country : I mean in the matter of compensation for acquisition of land.

Kashmir is really a poor country. That is granted. However, they might have done their best and tried more or less to fall in line with the practice that obtains in the other parts of the country. I very much wish that in these and in certain other matters Kashmir had followed the practice that is adopted by the rest of India. However, the Government of India have handled the situation in an understanding and sympathetic spirit. We have to appreciate what they have done ; we warmly appreciate the happy results they have brought about.

By this opportunity, I wish all success to the mission with which the Leader of our House goes to Geneva. It is indeed a difficult task. But a man of his capacity, of his persuasive qualities, and of his ability must be able to bring the matter to a successful issue. All our good wishes go with him, and we are sure that he will return with glory for our country and with success for his mission. Every section of the people of the country is with the Government in what they have done so far, and in what they may do in future, the people will certainly be with them.

SARDAR BUDH SINGH (Jammu and Kashmir) :

سردار بدھ سنگھ (جموں اور کشمیر) :

دینی چیئرمین صاحب ! کشمیر کے متعلق کافی لمبی داستانیں ہیں اور اس کے لئے کافی وقت درکار ہے۔ قبل اس کے کہ میں اس کے متعلق کچھ عرض کروں ابھی تھوڑی دیر پہلے اُپیسہ کے جن صاحب نے تقریر کی ہے ان کا نام میں نہیں جانتا۔ جو نوجوان صاحب ہیں انہوں نے دو ایک

باتیں اپنی تقریر میں ایسی غلط کہی  
 ہیں جن کا جواب میں پہلے دینا چاہتا  
 ہوں۔ ۱۰ جون ۱۹۵۲ء کو شیخ صاحب  
 نے جو تقریر کانستٹی ٹیوایمنٹ اسمبلی  
 (Constituent Assembly) کے سامنے  
 کی تھی اس کا حوالہ دیتے ہوئے انہوں نے  
 کہا کہ لارڈ اندرا کا بھی انتخاب کیا گیا  
 تھا۔ ہر ایک قوم میں طریقہ ہے کہ جس  
 کو لوگ ٹھیک سمجھتے ہیں اور جس  
 میں گن اوصاف موجود ہوتے ہیں۔ لایق  
 اچھے چلن کے ہوتے ہیں ان کو چلتے ہیں  
 اور انہی کو ہیڈ (head) بتاتے ہیں۔  
 ازیسہ کے معزز ممبر نے اس کا حوالہ دیتے  
 ہوئے وہ حصہ چھوڑ دیا جس میں انہوں  
 نے کہا تھا :

"In our own country, India, also the theory of the 'Divine Right of Kings' or that the King is the 'Shadow of God' had its way, but a close study of the Hindu Scriptures would reveal that this theory has no sanction whatsoever. What we find is that a person possessing certain qualities could alone claim the high honour of being the 'Shadow of God.' Kingship was not hereditary. Any person could become a King if he possessed all the qualities that go to make a King. If he was devoid of such qualities he did not deserve to occupy that position. Many facts become clear to us by closely studying the Hindu Scriptures. For instance, the Hindu mythology has it that Lord Indra was made the King only after he was elected by all other gods who assembled for this purpose."

یہ حصہ معزز ممبر نے چھوڑ دیا۔ اس  
 کے ساتھ ہی سانہ انہوں نے یہ بھی کہا  
 کہ اگر ڈیموکریسی (democracy) کی  
 تائید شیخ صاحب اسلام کی دو سے کرتے  
 ہیں تو چلگیز خاں کو کیا کہا جائے۔  
 شاید میرے دوست کو ہسٹری (history)  
 سے واقفیت نہیں ہے۔ چلگیز خاں مسلمان

نہیں تھا۔ چہاں شیخ صاحب نے اسلام  
 کا حوالہ دیا وہاں ہندو سکھ اور عیسائی  
 دھرموں کا بھی حوالہ دیا ہے۔ اور جو  
 ایکسٹریکٹس (extracts) ہمارے دوست  
 نے پیش کئے ہیں اس میں اندر دیوتا  
 کے بارے میں جو قصہ تھا اس کو نہیں  
 پیش کیا گیا اور اس حصہ کو بھی چھوڑ  
 گئے ہیں وہ یہ ہے :

"This apart, we find the same principal applied elsewhere also. This is the reason why Lord Indra was made the King. He was elected by all the gods, because he possessed all such qualities as according to Islamic tenets also make for superiority and greatness."

ایک پمفلٹ (pamphlet) ڈیموکریٹک  
 سوسائٹی کا حوالہ دیتے ہوئے انہوں نے کہا  
 کہ ہزاروں آدمی کشمیر اور جموں سے نکال  
 دئے گئے۔ یہ سراسر غلط ہے اور یہ پمفلٹ  
 اس کا ہے جو لاکھوں میں ایک غدار بزاز  
 ہندو جو پاکستان سے روپیہ لیکر اس کے  
 حق میں پروپیگنڈا کرتا ہے اور جموں و  
 کشمیر کو پاکستان میں شامل کرنے کا  
 پرچار کرتا ہے۔ ازیسہ کے معزز ممبر نے یہ  
 بھی فرمایا کہ جموں سے دو ضلع اس لئے  
 الگ کر دئے گئے ہیں کہ وہ کشمیر کے ساتھ  
 رہ سکیں۔ یہ بھی غلط ہے بلکہ دونوں ضلع  
 جموں پراونس (province) میں ہیں۔  
 حالانکہ آپ نے فرمایا کہ میں ہندو  
 مسلمان کچھ نہیں ہوں بلکہ ایک آدمی  
 ہوں اور ایک انسان ہوں۔ لیکن جس  
 وقت شیخ صاحب کی تقریر انہوں نے  
 پیش کی تو بہت سے ضروری حصے کا  
 حوالہ نہیں دیا اور انہیں ایک مسلمان  
 کی شکل میں پیش کیا۔ بیشک وہ  
 مسلمان ہیں لیکن ایک ایماندار صادق

[Sardar Budh Singh]

مسلمان۔ ہیں ایک سچے مسلمان ہیں اور نیک انسان ہیں اور یہ وہی مسلمان فرشتہ ہے جس نے لاکھوں ہندوؤں و سکھوں کی حفاظت کی ان کو گئے لٹایا - سریلنگو کشمیر میں راولپنڈی ایبٹ آباد اور کشمیر کے جبکہ دو لاکھ ہندو سکھ جمع ہو گئے تھے اور قبائلی آگئے تھے اور اوار اور ہندوؤں کی چل رہی تھیں مار گت ہو رہی تھی جب کہ حملہ آوروں کی طرف سے لوگوں کا بڑی طرح قتل ہو رہا تھا تو ایسے مسیبت کے وقت شیخ صاحب نے ان ہندوؤں و سکھوں کو بچایا - ایسے وقت جبکہ میں قید سے نکل کر آیا تھا اور وہ ہندو میرے پاس آئے اور مجھ سے کہا کہ بتاؤ اب ہمیں کون بچائے گا - تو میں نے کہا کہ شیخ عبداللہ بچائے گا - جموں میں بے گناہوں اور معصوم بچوں، عورتوں کا قتل عام ہو رہا تھا اور یہ سنگ پارتی جس کا نام پرچا پریشد رکھا گیا کی طرف سے اتیاچار و ظلم تھا - یہ خبر سنی نگر آگئی رہاں قبائلی بھی آگئے تھے - توپ اور ہندوق کی آواز سے مکانوں کے دروازے ہل رہے تھے - تب میں نے ہنڈروں سکھوں کو کہا کہ شیخ عبداللہ ہمیں بچائے گا انہوں نے کہا کہ بدعہ سنگھ پاگل ہے - یہ کہہ سے ممکن ہو سکتا ہے کہ جوں میں قتل و خون ہو رہا ہے اور قبائلی پہونچ چکے ہیں شیخ عبداللہ ہمیں بچائے گا - لیکن شیخ عبداللہ کو جب خبر ہوئی ہے تو وہ کہتا ہے کہ میں ان کو بچاؤں گا - ساتھ میں کر ہدایت کی کہ یہ ہندو سکھ بھائی

بھائی ہمارے بھائی خدا کی امانت ہیں ان کو بچانا ہمارا فرض ہے ایمان ہے اور پھر کہا کہ جب تک شیخ عبداللہ کی جان میں جان ہے جب تک اس کے جسم پر سر ہے جب تک کہ اس کے سر کو کڑی کات نہ لپٹا تب تک ہندوؤں سکھوں کا کوئی نقصان نہیں کر سکے گا - اس کا نتیجہ یہ ہوا کہ اس نے لاکھوں روپے کی مالکیت کے مکانات کو تھپیاں ان کے حوالے کر دیں - شیخ عبداللہ شہر میں جانے ہیں اور ہزاروں من تیل لکڑی سبز اور غلہ کشمیری مسلمانوں سے مانگ کر لاتے ہیں اور ان ہندوؤں کو دیتے ہیں اور ان کو ترکوں پر ہوائی جہاز پر اور تانگوں پر جموں کی طرف ان کی استدعا پر بھیجتے ہیں لیکن جب وہی تانگے والے واپس آتے ہیں تو ان کو مارا جاتا ہے ان کو قتل کیا جاتا ہے - یہ خبر کشمیر میں بھی پہنچتی ہے - لاکھوں آدمیوں کے خون ابلتے ہیں لیکن شیخ عبداللہ کھڑا ہو جاتا ہے اور کہتا ہے ہندو سکھ ہمارے بھائی ہیں - میں نیشنلسٹ (nationalist) ہوں اور مہانما گاندھی کا میرا آدرش ہے اور جب تک میری جان میں جان ہے جب تک ایک بھی نیشنل کانفرنس (National Conference) کا آدمی یہاں ہے جب تک ہمارا کانگریس کے ساتھ سببندہ ہے ہم مہاتما گاندھی اور اس کے آئیڈیل (ideal) اور آدرش کو مانیں گے اور ہم دو قوموں کی تھیوری (theory) کو کبھی نہیں مان سکتے ہیں - ہم پریم، محبت، ایک، انصاف، مساوات میں اعتقاد رکھتے ہیں - اس صورت میں

کوئی وجہ نہیں ہو سکتی کہ کوئی ہمارے  
 دھتے ہوئے ہندو اور سکھوں کا نقصان کر سکے  
 اور ہندو و مسلمان کو الگ الگ آنکھوں  
 سے دیکھ سکے۔ کوئی بھی ہندو مسلمان  
 ایک دوسرے کو آنکھ بھر نہیں دیکھ سکتا  
 نہ تکلیف دے سکا ہے۔ آج میں یہ دیکھ  
 کر کہ ہمارے نزدیک پرست بھائی کیا کہہ  
 رہے ہیں ایک دم حیران ہونا ہوں۔  
 یہ کن کی وکالت کر رہے ہیں۔ آپ کو  
 معلوم ہونا چاہیئے کہ راشٹریہ سیوک سنگھ  
 کی وہاں پارٹی ہے۔ جب یہ خلاف قانون  
 جماعت قرار دیدی گئی تھی تو اس کا نام  
 پرچا پریشد رکھ لیا گیا۔ اس نے کس طرح  
 بیگانہوں معصوم بچوں عورتوں کو ہلاک  
 کیا وہ آپ سن چکے ہیں۔ ایک سوال  
 یہ پیدا کیا جاتا ہے کہ جموں الگ ہے  
 کشمیر الگ ہے۔ یہ خیال میرے انریبل  
 شری رنگا صاحب نے فرمایا ہے۔ انہیں  
 معلوم ہرنا چاہیئے کہ جموں کیا ہے اور  
 کشمیر کیا ہے۔ شیخ عبداللہ نے صاف  
 الفاظ میں کانسٹی ٹیوٹینٹ اسمبلی میں  
 یہ اعلان کیا ہے کہ جموں اور کشمیر دو  
 آنکھیں ہیں اور دونوں کی زندگی اور  
 موت ایک ساتھ ہے۔ اکتھے زندہ رہیں گے  
 اور اکتھے ہی مریں گے اور اکتھے ہی آگے  
 بڑھیں گے۔ انہوں نے یہ کبھی نہیں کہا  
 کہ یہ کبھی الگ ہو سکتے ہیں۔ لیکن  
 یہ ہمارے دوست ہیں جو جموں کو کشمیر  
 سے خواستخواہ الگ کرنا چاہتے ہیں وہ  
 شیخ عبداللہ و نیشنل کانفرنس سے بڑے  
 کراؤلیتوں کے محافظ و حامی نہیں ہو

سکتے۔ میرا کہنا ہے کہ وہ جموں اور کشمیر  
 کو جا کر دیکھیں وہاں ایک نیا بے اتفاق ہے۔  
 مہاتما گاندھی سے بڑا دنیا میں اور پھر  
 ہندوستان میں کون تھا اور وہ ایک مہان  
 پرش تھے جس کے لئے لاکھوں لوگ اپنی  
 جان دینے کو تیار دھتے تھے اور جس کے  
 لئے ہر ایک اپنا سب کچھ دینے کو  
 تیار تھا اور جس کے ماننے والے لاکھوں اور  
 کروڑوں انسان ہیں اور جس کا نام سب  
 لیتے ہیں وہی اس وقت کہتے ہیں جبکہ  
 ہندو مسلمان کے جھگڑے ہو رہے تھے۔  
 ہندو اور مسلمانوں کے خون ہو رہے تھے کہ  
 اگر مجھے کہیں روشنی نظر آئی ہے تو وہ  
 کشمیر میں۔ وہ روشنی کشمیر میں تھی  
 اور شیخ عبداللہ میں تھی۔ اس نے ہندو  
 اور مسلمانوں کو بچایا اور ہندووں سکھوں  
 کو گلے لگایا اور اس کے متعلق یہ کہا جاتا  
 ہے کہ وہ کشمیری سلطان مسلمان ہے فرقہ  
 پرست کئی سالوں سے پکارنے ہیں۔ بیشک  
 وہ مسلمان ہے ایسا نیک اور پاک مسلمان  
 ایسا انسان جو کہ ہمیں کہیں نہیں ملتے۔  
 کیا یہاں ایک بھی ہندو ایسا نکلا جس  
 نے کہ جب یہاں مسلمانوں کو کوئی مارتا  
 تھا تو اس نے کہا ہو کہ ہندو دھرم ہمیں  
 ایسا کرنے کو منع کرتا ہے۔ گیتا اس کے  
 خلاف ہے رامائن اس کو نہیں کہتا۔ رام جی  
 یا کرشن جی کا یہ حکم نہیں ہے۔ جموں  
 میں بھی ایک ہندو نہ نکلا کہ جو مسلم  
 بھائیوں معصوم بچوں عورتوں کو قابل  
 خونی لوگوں سے چھوڑاتا۔ ہمارے یہ بھائی  
 جو جموں کی پرچا پریشد فرقہ پرست  
 جماعت کی حمایت کرتے ہیں جس کو

[ Sardar Budh Singh ]

نہ جموں کشمیر کی جغرافیہ کا پتہ ہے اور نہ وہاں کی حالت کا پتہ ہے نہ نیشنل کانفرنس کی تاریخ کا پتہ ہے - لیکن جموں کے چلند فرقہ پرست ان کے کان میں جو غلط جھوٹی باتیں بھرتے ہیں وہ یہ کہہ دیتے ہیں - جموں اور کشمیر کا سارا حال جواہرلال جی کو پتہ ہے اور شیخ عبداللہ کو پتہ ہے - جواہرلال اور شیخ عبداللہ نے جب ایک دوسرے کے ساتھ ہاتھ ملایا تو اس وقت بھاری جلسہ میں کہا تھا انہوں نے عہد کیا تھا کہ ہندوستان کشمیر کا ہے اور کشمیر ہندوستان کا ہے - اس عہد و قرار کو ان دونوں نے نہایت ایمانداری سے نبھایا جہاں جواہرلال جی اب تک اس پر قائم ہیں - وہاں شیخ صاحب نے بھی اسے ایمانداری سے نبھایا اور اس پر قائم ہیں - اگر شری جواہرلال جی کشمیر کے ساتھ عقل مندی دوراندیشی اور انصاف اور سچائی سے سمجھوتہ کرنے کا طریقہ اختیار نہ کرتے اور اگر اس کی فوجیں وہاں نہ جاتیں تو کشمیر کی یہ حالت نہ ہوتی اور کشمیر و جموں ہمارے ہاتھ سے نکل چکا ہوتا - اور پھر کوئی وجہ نہیں ہو سکتی تھی کہ آپ جموں و کشمیر کو ہندوستان کے ساتھ ملا سکتے - کوئی بات زبردستی تھوہنسی نہیں جا سکتی - رضامندی، خوش اعتمادی، سمجھوتہ سے کام نکل سکتا ہے - جموں و کشمیر میں لاکھوں مسلمان ہیں اور ان کی تعداد ۳۲ لاکھ ہے اور ہندو اور سکھ آٹھ نو لاکھ ہیں - ہمیں ۳۲ لاکھ مسلمان بھائیوں کی رائے رضامندی ہندوستان کے ساتھ شامل

ہونے کے لئے حاصل کرنی ہے - ہم نے اپنے یہاں کر تو لی ہے پھر کسی وقت بھی ان کے ووٹوں کی ہمیں ضرورت ہو سکتی ہے ان کو شیخ صاحب نے یہ صاف طور سے سمجھا دیا ہے - کابینہ چھپوا کر تقسیم نہیں اور ان کو ذہن نشین کرا دیا ہے کہ ہم کیوں ہندوستان کے ساتھ شامل ہونے میں اس لئے کہ وہاں سیکولرزم (secularism) ہے - محبت ہے اتحاد ہے پیار ہے نیک فریبی ہے مذہبی آزادی ہے دین و ایمان کی خیر ہے اور ہر شخص وہاں محفوظ ہے - وہاں چار کروڑ مسلمان ہیں تیس کروڑ ہندو ہیں لاکھوں سکھ ہیں سب بھائیوں کی طرح رہتے ہیں - وہاں تجارت کا وسیع میدان ہے کام کرنے والوں کاریگروں کے لئے کافی موقع ہے سیاسی اور اقتصادی آزادی و ترقی کا سامان ہے اور پھر ہندوستان میں جمہوریت سیکولرزم ہے - اس کا اصول اور آدرش ہمارا ایک ہے - شیخ صاحب نے خاص طور سے کہا کہ ہماری گشتی سمندر میں ہے بھنور میں ہے - دو کنارے ہیں ایک ہندوستان کا جہاں ایکٹا انصاف پریم اتفاق مذہبی آزادی جان و مال کی حفاظت انسانی رشتہ بھائی چارہ اور جمہوریت اور ترقی کرنے کے مساوی حقوق اور پھر جس نے ہماری آڑے وقت مدد کی اور دوسرا کنارہ پاکستان کا جہاں تلگ دلی نفرت ہے جہاں کے آدمیوں نے لوت کی ہے تباہی کے سامان پیدا کئے جہاں برابری ہے اور جہاں انسانیت نہیں ہے - جاگیردارانہ اور سرمایہ دارانہ ہے آہلہ ترقی کی صورت نہیں ہے

اس لئے ہمارے لئے ہندوستان کے ساتھ  
(دھنا ہی ہر طرح سے مفید ہے -

(Time bell rings.)

ف دو تین مدت میں ہی ختم  
کر دوں گا - اگر اجازت ہو تو کچھ عرض  
کر دوں۔

[For English translation, see Appendix II, Annexure No. 69]

MR. DEPUTY CHAIRMAN : The hon. Member's time is up.

PROF. DINKAR (Bihar) :

پروفیسر دینکار (بہار) : श्रीमन्, मैं प्रधान मंत्री जी के द्वारा रखे गये प्रस्ताव में एक तरमीम करना चाहता हूँ। प्रधान मंत्री जी के प्रस्ताव में यह है कि "That the Council do consider the situation in regard to the State of Jammu and Kashmir." में इसमें इतनी बात और जोड़ देना चाहता हूँ "and having considered the situation approves of the steps taken so far in the matter."

श्रीमन्, केवल पक्ष में बोलने वालों के भाव से ही नहीं, विरोध में जो भाषण दिये गये हैं उनसे भी यह बात जाहिर होती है कि समझौते की जिन शर्तों पर हम लोग विचार कर रहे हैं, वे शर्तें हमारे संविधान की धाराओं के विरुद्ध नहीं हैं। सबसे बड़ी बात जो हमारे सामने आती है, वह यह है कि काश्मीर के मामले में हिन्दुस्तान का आरम्भ से ही सही रास्ता रहा है। शुरू में ही हमने जो फैसला किया वह यह था कि काश्मीर के सम्बन्ध में हम जिस नीति को अपनायेंगे वह नीति लचकीली होगी, फ्लेक्सिबिल (flexible) होगी, जिससे कि समय और परिस्थिति के अनु-

सार हर हालत में हम उसे उचित दशा में बदल सकें।

मैं अपने मित्रों को याद दिलाना चाहता हूँ कि स्वर्गीय सरदार पटेल के समय विधान-निर्मातृ-परिषद् ने अगर काश्मीर के सम्बन्ध में इस लचकीली नीति को अपनाया अथवा खास तौर से जम्मू और काश्मीर के लिये हमने संविधान के अन्दर अगर ३७० धारा की शर्तें रखीं, तो यह कोई काश्मीर और जम्मू पर कृपा की बात नहीं थी और आज भी भारत सरकार काश्मीर के प्रति उदारता की नीति बरत रही है, तो इसका मतलब काश्मीर पर कोई खास मेहरबानी नहीं है। असल में यह उस सत्य की स्वीकृति मात्र है, जो सत्य काश्मीर के इतिहास और उसकी भौगोलिक स्थिति से उत्पन्न हुआ है।

भौगोलिक दृष्टि से देखने पर काश्मीर की स्थिति हमारी बुद्धि को चकित करने वाली है। अगर हम तिब्बत को हिन्दुस्तान की उत्तरी सीमा मानें तो हमें यह मानना होगा कि काश्मीर हिन्दुस्तान की उत्तरी सीमा के भी आगे पहुंचता है। वह एक तरह से मध्य एशिया का एक खंड बन जाता है। जलवायु और रहन-सहन में वह मध्य एशिया का एक टुकड़ा है। इसके सिवाय केवल पाकिस्तान ही नहीं, अफगानिस्तान, सोवियत यूनियन, चीनी प्रजातन्त्र और तिब्बत ये पांचों के पांचों देश इसके हमसीमा हैं।

श्रीमन्, दिल्ली से तिब्बत हवाई जहाज के रास्ते शायद ३०० मील से अधिक दूर नहीं होगा। मगर, काश्मीर इससे ज्यादा दूर है। और इन सारी बातों से कुछ निष्कर्ष निकलते हैं जिनका सामरिक महत्व बहुत ही बड़ा है। इन निष्कर्षों को समझ लेने पर भी जो आदमी यह सोचता है कि काश्मीर की स्थिति मैसूर, हैदराबाद या राजस्थान के राज्यों से भिन्न नहीं है, मैं समझता हूँ कि वह चीजों को ठीक ठीक नहीं देख रहा है। असल में, मैं जो बात कह रहा हूँ उससे इतनी ही बात नहीं

[Prof. Dinkar.]

निकलती है कि हवाई जहाज पर चढ़ कर सरहद के इधर या उधर बम गिराये जा सकते हैं। असली चीज़ तो यह है कि आज की दुनिया में विचारों का चोरी चोरी प्रवेश पहले होता है और बम पीछे गिराये जाते हैं। सवाल हमारे सामने यह है कि काश्मीर में जहां बाहरी मुल्कों के पांच पांच दरवाजे हिन्दुस्तान की ओर खुले हुए हैं, उन दरवाजों पर रहने वाले लोगों के प्रति हमारा क्या भाव रहेगा। आधा हम काश्मीरी जनता को स्वावलम्बी और संतुष्ट बनाकर इन दरवाजों से आने वाले खतरों को बन्द कर देना चाहते हैं अथवा इसके खिलाफ कार्रवाई करके खतरों के इन दरवाजों को खोल देना हमारा उद्देश्य है।

इसी तरह कुछ ऐतिहासिक बातें भी हैं, जिनका काश्मीर के प्रति बरती जाने वाली हमारी नीति पर गहरा प्रभाव है। जब हिन्दुस्तान में आज़ादी की लड़ाई शुरू हुई, तब बहुत कारणों से कांग्रेस अपनी लड़ाई में काश्मीर को पूरी तरह से अपने साथ नहीं ले सकी। लेकिन जब देशी रजवाड़ों के खिलाफ इस देश की प्रजा ने आन्दोलन छेड़ा, तब उस लड़ाई में काश्मीर की जनता ने खुलकर भाग लिया। खुलकर भाग ही नहीं लिया बल्कि उस लड़ाई में काश्मीर के प्रजा-आन्दोलन का जैसा रूप निखरा वैसा रूप किसी भी राज्य के आन्दोलन का नहीं रहा। स्वाधीनता के पास आने के समय देश के भीतर के सभी प्रजा-आन्दोलन कांग्रेस के महान् आन्दोलन में गर्क हो गये और धीरे धीरे हम सभी लोग एक ही तरह के पुण्य और पाप के भागीदार बन गये। किन्तु काश्मीर के प्रजा-आन्दोलन का व्यक्तित्व तब भी कांग्रेस के व्यक्तित्व से अलग और स्वतन्त्र रहा और उसका यह रूप आज भी कायम है; बल्कि यों समझना चाहिए कि पाकिस्तान की ओर से होने वाले हमलों की आग में पड़ने के कारण काश्मीरी प्रजा-आन्दोलन के व्यक्तित्व में और भी निखार आ गया। मानना होगा कि हमारे आन्दोलन

को उस आग का मुकाबला करना नहीं पड़ा, पाकिस्तान की कृपा से जिस आग ने काश्मीर के प्रजा-आन्दोलन में ज्वाला भरी है, यही कारण है कि काश्मीरी प्रजा अभी भी शिथिल नहीं हुई है; बल्कि आज़ादी के लिए उसका जोश कल की बनिस्बत आज ज्यादा ताज़ा है। और यही कारण है कि आज जब हम उन सपनों पर पांव धर कर निश्चित हो गये हैं जिन सपनों ने हमें आज़ादी की लड़ाई की ओर खींचा था, तब काश्मीर की प्रजा अपने उन सारे सपनों और मनमूर्तों को लेकर आगे बढ़ना चाहती है, जिन्होंने काश्मीर में प्रजा-आन्दोलन को जन्म दिया था और जिन्हें सामने रख कर वहां की प्रजा वीरता के साथ हमलावरों का मुकाबला करती आई है। हमारी चाल धीमी है, इसलिये काश्मीर की जनता भी धीमी चाल से चले, यह कोई अच्छी दलील नहीं है और न इससे उन लोगों की शान ही बढ़ती है, जिन्होंने जनता की प्रगति और निहित स्वार्थों की अधोगति की कसम खाई थी।

[MR. CHAIRMAN in the Chair.]

श्रीमन्, इन ऐतिहासिक और भौगोलिक तथ्यों के बीच हमें उन शर्तों पर विचार करना है जो मौजूदा इकरारनामों में नागरिकता, मौलिक अधिकार, डोगरा वंश की समाप्ति और राष्ट्रीय झंडे के प्रसंग में रखी गई हैं। संविधान की धारा ३७० के अन्दर हमें यह अधिकार प्राप्त है कि हम काश्मीर के सम्बन्ध में खास तरह का संलूक कर सकते हैं। और उसी धारा के अनुसार हम नागरिकता, मौलिक अधिकार तथा अन्य दूसरी बातों में काश्मीरी जनता की प्रगति के हिसाब से परिवर्तन कर रहे हैं। यह जरूरी है, क्योंकि इसके बिना काश्मीरी जनता को वह समाज नहीं मिल सकेगा, जिस समाज के लिये वह इतना संघर्ष करती रही है, इतना दुःख उठाती रही है। अगर यह अधिकार हम काश्मीरी जनता को नहीं देते हैं तो इसके मानी हैं कि हम उनसे उन मनमूर्तों को छीन



रहे हैं जिन मनमूर्खों में आकर वह आक्रमणकारियों और पाकिस्तान के अत्याचारियों से लड़ती रही है।

श्रीमन्, एक बात और है जिसके लिये काश्मीर के प्रति हमें सहानुभूतिशील रहना है। गांधी जी ने भात में साम्प्रदायिक एकता की जो आग जलाई थी, उसे काश्मीर बरकरार रखे हुए है, यद्यपि हम उसे कायम नहीं रख सके, बल्कि उसे बुझाने की कोशिश में हमने खुद गांधी जी को ही उसमें झोंक दिया। एक समय काश्मीर इस देश की संस्कृति और साहित्य का अंगुष्ठांग था। शैवधर्म की एक प्रमुख शाखा का विकास काश्मीर में हुआ। संस्कृत के अनेक अनमोल ग्रन्थ काश्मीर में रचे गये, और सबसे बड़ी बात तो यह है कि संस्कृत का साहित्यशास्त्र प्रायः छः सौ वर्षों तक काश्मीर में विकास पाता रहा, जिसका प्रमाण यह है कि रुद्रट, मम्मट, आनन्दवर्धन और अभिनवगुप्त, ये सब के सब काश्मीरी थे। अगर आज काश्मीर नये समाज की रचना की दिशा में हमसे आगे जाना चाहता है तो यह ईर्ष्या नहीं, गर्व की बात है। काश्मीर के मुसलमानों ने जिन्ना की दो नेशन (nation) वाली थ्योरी (theory) की धुरी उड़ाकर दुनिया में कांग्रेस की परम्परा की इफ्जट बढ़ाई है। काश्मीरी जनता उस मशाल को ऊंचा उठाये हुए है जिसमें गांधी-धर्म की लौ चमकती है और जिससे हिन्दू-मुसलिम एक्य की खुशबू फैलती है। यह वह नजारा है जिसके बल पर इतिहास एक दिन यह लिख पायेगा कि हिन्दुस्तान का बटवारा गलत उसूलों पर हुआ था। यह वह अमृत है जो एक दिन हिन्दुओं और मुसलमानों के कलेजे में शीतलता लायेगा। काश्मीर पर हमें नाज होना चाहिये। आज जब काश्मीर आशा की नई लकीरों पर पांव धर रहा है, तब हमारा फर्ज है कि हम पूरी सद्भावना से उसकी पीठ पर खड़े रहें, जैसे माता अपने बच्चे के पीछे खड़ी रहती है।

काश्मीर के भीतर से ही संसार के पांच दरवाजे खुलते हैं इसलिये यह आवश्यक है कि काश्मीर और

भारत के बीच पूरी एकता रहे। अतः मेरा निवेदन है कि काश्मीर के सम्बन्ध में कड़ाई और जकड़-बन्दी की बातें जुबान पर नहीं लाई जायें। मैं यह नहीं मानता कि काश्मीर के दोस्तों को हिन्दुस्तान पर अविश्वास है अथवा यह कि आगे चल कर वे हमसे कूटनीति करने वाले हैं। अगर ऐसा होता तो सेना, यातायात और वैदेशिक नीति के सम्बन्ध में भी काश्मीर एक्सेशन (accession) से भागने की कोशिश करता। अथवा संविधान की धारा १३१ में जिन विषयों का उल्लेख है, उन विषयों के सम्बन्ध में वह अपने अधिकारों को भारत की सुप्रीम कोर्ट (Supreme Court) को नहीं सौंपता। मेरा ख्याल है कि काश्मीर ने जो रियायतें मांगी हैं वह इसलिये नहीं कि काश्मीर आगे चलकर हिन्दुस्तान के साथ कूटनीति का व्यवहार करेगा, बल्कि इसलिये कि ये रियायतें काश्मीर की माली तरक्की के लिये जरूरी हैं और इन रियायतों के बिना काश्मीर में वह चीज खड़ी नहीं हो सकती, जिसकी उम्मीद में काश्मीरी जनता इतना संघर्ष झेलती आई है।

मेरा नम्र निवेदन है कि हम सब लोगों को जवाहरलाल जी को धन्यवाद देना चाहिये कि आरम्भ से ही उन्होंने इस मामले में दूरदर्शिता से काम लिया है। हमारी दृष्टि तो बहुत दूर नहीं जाती, मगर उनकी नजर बहुत बहुत दूर तक पहुंच रही है। मेरा ख्याल है कि आगे का इतिहासकार सम्भव है, उनकी अन्य नीतियों के सम्बन्ध में कोई प्रतिकूल टीका करे, परन्तु वह इतना अवश्य लिखेगा कि काश्मीर के सम्बन्ध में जवाहरलाल ने कोई भी गलती नहीं की।

[For English translation, see Appendix II, Annexure No. 70.]

THE LEADER OF THE COUNCIL  
(SHRI N. GOPALASWAMI) : Mr.  
Chairman, after this somewhat longish

[Sh. i. N. Gopalaswami]

debate on Kashmir, and after the comprehensive statement that the Prime Minister made in the other House the other day, followed up today by the speech he made in this House, in moving the present motion, there is little need for me to add to the information that he has supplied to this House on this question. The general aspects of the problem are clear. There are facets to that problem which in a broad way we have got to look at in connection with the present debate. The motion is that we should take the situation in Kashmir into consideration. That situation has reference, first of all, to our entanglement with the Security Council and, only, secondarily, with the negotiations we have recently had with the Kashmir Government in regard to certain aspects of the Constitution that its Constituent Assembly is engaged now in framing. Naturally, as these talks have been quite recent, greater importance has been attached, in the course of the speeches today, to this aspect of the problem. But, before I go on to it, I should like to say a word or two on the other aspect, namely, the problems that still continue to exist in respect of what I have called our entanglement with the Security Council. How the matter was taken to the Security Council and how it has gone on for the last 4 years, 4½ years nearly, without our being able to reach a solution was fully referred to in the speech of the Prime Minister. I will not weary the House by going over the same ground again. The broad position is that we are committed to the taking of a plebiscite in Kashmir. I want that question to be very clearly understood. That question is not whether Kashmir will accede to India or not; or even whether Kashmir will ratify or confirm a provisional accession which had taken place in the past.

Correctly speaking the question on which the plebiscite has to pronounce is whether Kashmir, which has already acceded to India in law and in fact as has so often insisted on in this debate, will remain in India or go out of it. This is an aspect of the problem which 4½ years ago I made clear myself before

the Security Council. Although we have been loosely talking in the meanwhile of ratification, confirmation of a provisional accession, the real matter for decision is whether Kashmir will continue to remain with India. She is part of the territory of India. That has been made clear by the Constitution of India which came into being on the 26th January 1950. Now in regard to the taking of the plebiscite, the Security Council has been discussing the preliminaries that should be established for the purpose of taking what has been described as an impartial plebiscite. We have always averred our willingness, we have stated that we are always prepared to have this plebiscite taken as soon as peaceful conditions are established and the other conditions necessary for the taking of a really impartial plebiscite have also been established. It is in respect of the establishment of these conditions that there has been a tremendous lot of argument over these 4 years and odd. Firstly, a Commission came over and investigated this question. It produced two Resolutions, of the 13th August 1948 and the 5th January 1949 to which both parties agreed but subsequently disputes arose about the interpretation of certain clauses of these two Resolutions, which could not be resolved by the Commission itself. It went back and we had Sir Owen Dixon coming over here for the purpose of seeing whether he could find a solution. He worked for some months, was unable to bring the two parties to an agreement, he went back and practically threw up his hands and said that the best way of settling the matter would be to leave the two parties to themselves and permit them to negotiate with each other direct. This however was not accepted in the Security Council. They argued about it and finally they sent out another representative of theirs—Dr. Graham. He came over and he has also spent a number of months here; he has devoted all his energies and experiences to the finding of a proper solution. He has tried to bring the two parties together and to narrow down the gap that existed between their different views. He has now reached a stage

when he finds that merely conversations at the level at which they have been held hitherto will not suffice; he is of the opinion that conversations should be held as regards the unresolved points between Ministerial representatives of the two Governments. He has called Ministers from both countries to Geneva for this purpose. It is proposed, therefore, to start these talks about the 25th of this month. That is where that aspect of the Kashmir problem now stands. I can assure my hon. friend Mr. Ranga that I can only bring to bear upon the task which I am about to undertake such competence and experience as I may possess. He may rest assured that so far as the Kashmir case and the India case with regard to this question are concerned, they have not suffered at my hands hitherto, and they will not suffer. I quite appreciate the friendly advice he gave me that I might take one or two people who are tougher in spirit and who might perhaps strengthen my hands and prevent my making surrenders unexpectedly. There is no danger of my making any such surrenders. Sir, often times it has been my experience during such negotiations that these tougher spirits who are tagged on to the principal delegate more often suggest surrenders than the delegate himself. Well, I can only do my best; and neither the country as a whole nor the Kashmir State in particular is likely to suffer at my hands. I do hope that when I come back my hon. friend will not fling in my face the charge: "Oh, if you had been only a little more yielding than you were, perhaps the problem could have been solved."

Now, Sir, coming to the talks about the internal problem in Kashmir which we have had recently, I may say, before I make any further remarks, that I accept the amendment which my hon. friend Shri Dinkar moved. In dealing with these talks I want to make one or two points clear. Kashmir is in the Constitution of India today. It is a part of the territory of India. Today the residents of Kashmir are citizens of India. They do not have to become citizens of India in the future. The

relations between Kashmir and the Centre are governed by article 370 of the Constitution which no doubt is in a chapter of transitory provisions in the Constitution but which certainly gave a Constitution for the State of Kashmir, just as other parts of the Constitution did give a constitution to other States in the country. It was at that time envisaged that as a result of the provisions made in article 370 a more permanent constitution will be framed for Kashmir and a closer relationship will come to be established between Kashmir and India. The process by which that close relationship could be established was very clearly indicated in this article. We cannot forget the fact that it did envisage the disappearance of this article in due course and also something else, and that is why in the language of article 370 you will find provisions which, when the time was ripe and all parties were agreed, would enable the President practically to wipe out this article from the Constitution of India and allow article 238 to operate as it does in the case of other States. But we were practical-minded people when we framed this article 370. We envisaged also a state of things when it might not be possible to wipe out article 370 altogether. We therefore provided for closer relationship being established between Kashmir and the Centre with the consent of the Government or the Constituent Assembly of the State or at their instance, on the one side, and the President as the chief executive of India, on the other. That is why though the original tie between Kashmir and the Centre was based upon the three basic subjects—Defence, Foreign Affairs and Communications—we provided that in respect of the other subjects mentioned in the Constitution, the tie is to be made closer so as to include such subjects also, with the concurrence of the Government of Kashmir, if that closer tie had to be established before the Constituent Assembly was convened or with the concurrence of the Constituent Assembly after it was convened. Now we are at a stage when we have got the Government of Kashmir and the Constituent Assembly of Kashmir both

[ Shri N. Gopalaswami ]

functioning. The Constituent Assembly is now engaged in framing the constitution of the State of Kashmir. Naturally in framing that constitution the relationship that should be more permanently established between Kashmir and the Centre has to be very carefully defined. In the course of the definition of this relationship we are committed to respecting the wishes of the people of Kashmir expressed through their representatives in the Constituent Assembly. The Constituent Assembly took certain decisions and it is, as a result of those decisions the leaders of Kashmir came here for the purpose of having talks with us to see how those decisions could be appropriately and without objection fitted into the provisions of our own Constitution and how they could be made to conform as much as possible to our wishes also. That was the genesis of these talks. Now before I come to the details of the agreement that was entered into, let me say that the agreement covers only some of the points which will have to be settled by agreement between the Centre and the State.

5 p.m.

There are a number of other matters connected with constitution-making in respect of which there will have to be further talks between the Centre and Kashmir and agreements will have to be reached on these points also. We took the more important points for the purpose of our recent talks and came to certain conclusions. Now, Sir, these conclusions have elicited a certain amount of criticism. I might perhaps refer to the broad results, in the first instance of this agreement. I think perfect understanding and goodwill have been established with regard to some very fundamental problems. The first relates to citizenship. The second relates to fundamental rights. The third relates to the Supreme Court. The fourth relates to the place of the President of the Republic of India in the constitution of the State of Kashmir. Now, I wonder whether I mentioned the headship of the State. That is another important matter.

Now, in dealing with these matters, I take up first the question of citizenship. As I said, in spite of the fact that Kashmir is not specifically tied up with India in respect of article 5, etc., in the part on citizenship, it is the view of our legal experts—and I agree with them—that a resident of Kashmir today is a citizen of India. We did discuss this question of Kashmir's accession in respect of this citizenship chapter when we were framing article 370, and it was left over for full examination and future consideration. Now, that consideration has been given to some extent in connection with the recent talks. It is a matter of agreement between Kashmir and the Centre that there can be only one citizenship in India and that is Indian citizenship. A citizenship law both as it exists in the Constitution of India and as it may be elaborated in a separate Parliamentary enactment hereafter should generally apply to Kashmir, but Kashmir has certain problems, one or two of which were referred to by the Prime Minister this morning. We have to see whether in the framing of our new citizenship law it would be possible to provide for such peculiarities of Kashmir as deserve to be perpetuated.

That is the gist of the agreement that has been reached on the question of citizenship. I am not arguing at length the somewhat detailed points that were touched upon as regards people returning from Pakistan and so on. We have similar problems to deal with in the rest of India and they bristle with a number of difficulties for which we shall have to make provision and if Kashmir presents difficulties of her own which are not to be found in the rest of India, we shall have to take note of them and provide for them.

Then, going on to the question of fundamental rights, it is agreed that generally speaking the fundamental rights, provided in our Constitution should apply to Kashmir also.

PROF. G. RANGA : May I interrupt on one point. Does this concession apply to such of the Kashmiri people who had left Kashmir out of fear when

the invasion took place and came down to Punjab and other parts of India ?

public of India as a whole and not the State only.

SHRI N. GOPALASWAMI : Yes. When we say India, Kashmir is included in it. Now, generally speaking the fundamental rights in our own Constitution should be applicable to Kashmir. But there are certain things peculiar to Kashmir which require exceptions or qualifications to be made in the actual statement of fundamental rights in some articles of the Constitution. Whether such modifications or exceptions should be made by an amendment of the Constitution or not is a matter which has to be examined by our legal and constitutional experts. I think some hon. Member referred to article 19(d), (e) and (f) which says : "to move freely throughout the territory of India ; to reside and settle in any part of the territory of India ; to acquire, hold and dispose of property." With regard to this, of course, there is the question that if Kashmir wants to prevent non-Kashmiris from coming and acquiring property in Kashmir, and if it was so intended—I speak subject to correction by my hon. legal colleague—to acquire, hold and dispose of property, you have this exception to it in clause (5) of that article : " Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe." Now I believe the 'State' here covers the constituent States also. If it does, the State is at liberty to make a law imposing restrictions on the holding and acquisition of property if its legislature considers that such restrictions were in the interests of the general public of the State.

PRINCIPAL DEVAPRASAD GHOSH : But only reasonable restrictions.

SHRI J. R. KAPOOR (Uttar Pradesh) : Only if it is in the interests of the general

SHRI N. GOPALASWAMI : I do not know if the interpretation is that it refers to the general public of India as a whole. If so, then we shall perhaps have to accommodate the Kashmir leaders in so readjusting the provisions of this particular article as to give them the liberty of imposing those restrictions in the interests of the people of the State. There are other similar fundamental rights. For instance, every item in clause (1) of article 19 has an exception in similar terms, so that the State has the liberty to restrict the absolute statement you find in the original clause of this article, to restrict the operation of it.

SHRI S. MAHANTY : Just one interruption, Sir.

MR. CHAIRMAN : Why don't you sit in your proper place ?

*(Shri S. Mahanty goes to his usual seat.)*

SHRI S. MAHANTY : Sir, is not article 19(5) of the Constitution adequate for this purpose ? Why have separate citizenship ? That is my question.

SHRI N. GOPALASWAMI : Well, I think the hon. Member should put that question, if it were possible at all to put it, to the framers of this Constitution which he has accepted. That has given this right, not myself.

SHRI P. SUNDARAYYA : But you were one of them.

SHRI N. GOPALASWAMI : Not the Government of India for the time being in power. The Constitution was the production of the Constituent Assembly representing the whole of the people of India and they gave to themselves this Constitution, and it can be amended only by a particular process.

[Shri N. Gopalaswami.]

Then there is this point in which naturally my hon. friend the leader of the Communist group was greatly interested, I mean the portion in the agreement which refers to the exception which will be made as a result of the land reforms which Kashmir has introduced and is implementing. It is very natural, and though somebody described it as propagandist I am quite willing and prepared to believe that he honestly believes that this is the thin end of the wedge, that this particular thing will travel very far into the rest of India until the whole of India has come into line with Kashmir so far as that matter is concerned. But that is a matter for the future. Government in power can only deal with practical problems which face them. Ideologies are one thing, the practical implementation of ideals is another thing. We may leave this for the future to settle. So much about the fundamental rights.

I pass on to the Supreme Court. Perhaps the biggest aspect of the agreement was the one we reached about the Supreme Court. The Supreme Court will have, in respect of Kashmir, all the original jurisdiction it has under our Constitution in respect of the rest of India.

Well we, particularly I, because I happen to know conditions in Kashmir a little more intimately than many others, pressed strongly upon the leaders of Kashmir that they should accept the appellate jurisdiction of the Supreme Court also and put an end to His Highness' Board of Judicial Advisers, as the Tribunal is called today, which was established when I was Prime Minister in Kashmir as something which would serve the same purpose in regard to litigation in Kashmir that His Majesty's Privy Council did with reference to litigation in India. Once we have a Supreme Court in the Federation, it would be anomalous to have a court with that status and powers in an individual State. One great thing that the Constitution of India has done is the way in which it has tied up the judicial systems of the States and the Centre. That is one of the

biggest achievements of the Indian Constitution. The Kashmir representatives said that they accepted the position that it was a very desirable thing to do, but only wanted time to examine all the implications of it in their own laws and courts before they would give their final answer. I do hope that their final answer will be to accept the appellate jurisdiction of the Supreme Court also.

Sir, we then come to the powers of the President. That is a minor thing which is mentioned in the statement of the agreement, power to reprieve, grant pardon and so on. This is not a very big thing, but that shows how Kashmir representatives recognised in full the position the President occupies in the Republic of India. The other thing with regard to the President is his power to act in an emergency, and the President's role rules article 352. I fully accept the exposition of that article by Dr. Kunzru. It is an article which gives power to the President to take action whenever war, external aggression or internal disturbance threatens the security of India or any part of it. That is the operative part of that article. The only point which the Kashmir representatives brought up in this connection was the reference to internal disturbance. Their fear was that it might become possible for the President of India to intervene in the case of some small communal disturbance or rioting. That is what they thought that such an encroachment on the autonomy of a State should not be allowed. Well, the fear, I think, was groundless, but the fear was there and we, after a good deal of discussion agreed to the position that internal disturbance connected with local troubles of that sort should not be the occasion for such interference. Therefore, in order to judge whether the trouble was merely local or something which affected the larger security of India we said that we agreed to the position that that interference might be made with the concurrence or at the request of the State Government. I might mention in passing that this is not so unusual a provision as some may think

It certainly makes a departure from the position as applies to the rest of India. But I believe in similar circumstances in the United States of America it is only at the instance or at the request of the Government or the Legislature of a State that the Centre could intervene. I don't say that we should follow the U. S. Constitution in every small detail but what I do wish to point out is that it is not so unusual.

As regards the substance of the point taken by my hon. friend Dr. Kunzru, *viz.*, that the President's hands should not be tied down if he has to take action in respect of an internal disturbance in a State which affects the security of India, I think the Prime Minister made it clear that while the action that could be taken by the President under article 352 is taken in this way, there is nothing which prevents us from making a law under item 1 of the Union List which covers all aspects of Defence, which enables us to take somewhat similar action when the peace or security of India is threatened by some disturbance inside a State.

PROF. G. RANGA : You want executive action.

SHRI H. N. KUNZRU : I should like the hon. Minister to make a point clear. When action is taken under article 352, the cooperation of the civil power will be needed and article 352 lays down provisions which make it obligatory on the civil authorities to co-operate with the Centre. Now how is this co-operation going to be assured without a proclamation under article 352 ?

SHRI N. GOPALASWAMI : I can only say how it can be got round. I would put it this way. Under the item Defence we have the exclusive power to make laws for the purposes described in that item. Supposing for the purpose of enabling us to take emergent action even in an emergency which is contemplated under article 352 we provide in that Parliamentary enactment the conferment of powers on some

authority or other to take the action, even for instance compelling the co-operation of the civil authorities of the State in that matter, provided we make that law under the provisions of that item and according to the procedure prescribed in the Constitution, we shall be able to get round the difficulty which might be created by the insertion of these words in article 352. That is all that I can say.

I think there is one other point. I think I have covered both the points referred to by Dr. Kunzru.

SHRI H. N. KUNZRU : The hon. Minister has not replied to the first point relating to the power proposed to be given to the Kashmir authorities to detain persons on account of the conditions prevailing there, *i. e.*, infiltration, espionage etc. I enquired why this power should be given which will not be challengeable in the Supreme Court and why should it not be given to the Centre under the Preventive Detention Act which could be extended to Kashmir.

SHRI N. GOPALASWAMI : I believe the Prime Minister referred to special factors such as infiltration across the border—people coming in for doing anti-State or anti-Indian propaganda, people coming in for committing acts of sabotage, and so on. Naturally my hon. friend Dr. Kunzru associated these peculiar factors with defence, and argued, if we had a law for preventive detention of such persons under our own powers under the Constitution, where was the necessity to make any special exceptions or modifications in regard to that matter ? That, I take it, was his problem. Now, so far as preventive detention is necessitated for the purpose of preventing acts which affect defence, he is perfectly right. But the Kashmir representatives went further than that. They thought that with respect to preventive detention even in respect of non-defence matters they should have a freer hand than Governments of States or the Centre in the rest of India possess today. I must say that my hon.

[ Shri N. Gopalaswami. ]  
 friend Mr. Sundarayya will not feel particularly elated by this attitude of the Kashmir Government.

SHRI P. SUNDARAYYA : Of course, not.

SHRI H. N. KUNZRU : What I wanted to know from my hon. friend was whether the action of the State Government will be challengeable in the Supreme Court or not.

SHRI N. GOPALASWAMI : Which action ?

SHRI H. N. KUNZRU : If the State Government detains a person without trial, will it be possible for the detenu to challenge the detention in the Supreme Court, as it is possible for a man detained under the orders of the Central Government or of a State Government in the rest of India to challenge such detention in the Supreme Court ?

SHRI N. GOPALASWAMI : That depends upon two considerations. As my hon. friend knows, preventive detention for purposes connected with defence and foreign affairs is a Central subject ; that is to say, Parliament has the exclusive power to make laws for that. Preventive detention for the purpose of public order and things of that kind—that, I believe, is a Concurrent subject. The question that my hon. friend asks me will arise if Kashmir, which has already acceded to us on the items in the Union List, objects to coming in on the item in the Concurrent List ; in which case the power, will rest with the State only. But if, as I hope it will, it comes to their accepting this item in the Concurrent List, then the law that we make here at the Centre will give the right to resort to the Supreme Court. That is what will happen. I cannot say exactly how it is going to turn out in the end. This depends upon certain conditions.

SHRI H. N. KUNZRU : Now let us suppose that no Preventive Detention Act passed by the Government of India extends to Kashmir and that the State Government passes its own security law under which it can detain

persons without trial. Then will an appeal against its actions be possible to the Supreme Court ? Whether this subject is included in the Concurrent List or the State List has got nothing to do here.

PRINCIPAL DEVAPRASAD GHOSH : As a matter of fact, Sir, the Kashmir Government is reported to have arrested and detained numerous members of opposing political parties like the Praja Parishad for instance. Have they got a right of appeal to the Supreme Court or not ?

SHRI N. GOPALASWAMI : They will be governed by the laws of the State. The point made by my hon. friend Dr. Kunzru is that when you have a State law and under that law certain persons are arrested and put under preventive detention, is it possible for the aggrieved person to go up to the Supreme Court ? Well, if it is an appeal and if the Kashmir Government accepts—and I am hoping they will do so—the appellate jurisdiction of the Supreme Court both in criminal and civil matters, then the appeal can come to the Supreme Court.

Sir, as regards the headship of the State, I do not wish to say anything more. I am afraid, Sir, the time is almost up though I have a number of things to say. But I think I have said enough to show that we made great advances during the talks that we had with the Kashmir representatives. We established much greater understanding between the two Governments and the way has been smoothened for the tackling and settlement of the problems that will arise in the future in the course of the making of the constitution of the State.

SHRI H. P. SAKSENA : May I know, Sir, what the status of the State of Jammu and Kashmir will be when it emerges out of its present formative stage ? And another thing that I want to know from the Leader of the House is this : Will the national anthem, the national flag and the national language be adopted by the State of Jammu and Kashmir in the same



manner and in the same fashion as they have been adopted or are to be adopted by other parts of India ?

SHRI N. GOPALASWAMI : Sir, the future status of the State will be its present status, namely, it will continue to be a constituent unit of the Republic of India. With regard to the question of the national flag and the national anthem : Neither of them is, I believe, mentioned in the Constitution of India. But it may be taken for granted and it has already been said that the national flag will occupy in Kashmir the same significant position—dominant position. I will put it that way—that it occupies in the rest of India. As for the national anthem, even today whenever I have been in Kashmir and whenever there has been a function, the national anthem is sung.

With regard to the other point referred to, namely, the national language, the national language is governed by a part of the Indian Constitution. The application of that part to Kashmir we have not yet discussed. If a settlement is reached and those articles of the Constitution are accepted, then the national language will be used in the same way as it is used elsewhere. Till then the present state of things will continue. This is a matter on which we have got to respect the wishes of the people of Kashmir.

SHRI KARTAR SINGH : As regards the point in the agreement about the acquisition of land in Kashmir by non-Kashmiris, my submission on this matter is that this is not a reasonable restriction under sub-clause (5) of article 19, and if the Leader of the House so desires, he might consult the Attorney General for his opinion whether this is a reasonable restriction or not. The Punjab Land Alienation Act already on the Statute Book for the last many years restricting the purchase of agricultural land by non-agriculturists, was referred to the Attorney General for his opinion whether it was a reasonable restriction or not, and his opinion was that that

restriction was not a reasonable one and that it offended against the provisions of the Constitution of India and that Act was annulled and repealed probably by a decree of the President.

The Leader of the House and the Government of India may consult the Attorney General on this point in the agreement, as the opinion of the Attorney General in regard to the Punjab land Alienation Act was already there that it was not a reasonable restriction.

SHRI N. GOPALASWAMI : So far as the question as to whether it is a reasonable restriction or not is concerned, it is not a matter on which I should like to pronounce an opinion. I would only put the political side. If it is held to be a reasonable restriction, this law in Kashmir will be valid. If it is held to be not a reasonable restriction, then I think we must make some adjustment either in our Constitution or otherwise for the purpose of enabling them to do so. I want to make that position quite clear.

MR. CHAIRMAN : In view of the statement made by the Leader of the House, do you wish to press your amendment ?

PRINCIPAL DEVAPRASAD GHOSH : Yes, I do.

MR. CHAIRMAN : The question is :

That the following be added to the motion :

"and having considered the situation in regard to the State of Jammu and Kashmir, the Council resolves : that the reported terms of Agreement between the Prime Minister of India and the Prime Minister of the State of Jammu and Kashmir involve special treatment and discrimination in favour of the inhabitants of a particular State and therefore requests the Government of India to take steps to get Kashmir to accede to India completely in respect of all subjects without delay."

The motion was negatived.

MR. CHAIRMAN : The next amendment is by Prof. Dinkar. The Leader of the House has accepted the

[Mr. Chairman.]  
amendment. I put it to the House.

The question is :

That the following be added at the end of the original motion :

“and having considered the situation approves of the steps taken so far in the matter.”

The motion was adopted.

MR. CHAIRMAN : The question is :

That the Council do consider the situation in regard to the State of Jammu and Kashmir and having considered the situation approves of the steps taken so far in the matter.

The motion was adopted.

#### SALARIES AND ALLOWANCES OF MINISTERS BILL, 1952

—continued.

MR. CHAIRMAN : We now get back to the discussion on the Salaries of Ministers Bill.

PROF. G. RANGA (Madras) : Up to what time are we sitting today ?

MR. CHAIRMAN : 6 o'clock.

SHRI K. B. LALL (Bihar) : When I was dealing with the salaries of Ministers, I was pointing out the example of the great patriot saint of Bihar, Sir Ganesh Dutt Singh and on that basis, I would request the hon. Minister who is in charge of the Bill that he should consider whether it would not be advisable to withdraw this Bill and fix the salaries of Ministers in that way, so that Ministers may get their salaries and may not be open to attacks.

An atmosphere has been created in the country by so many parties who want to preach a different philosophy imported from other countries and gradually we are also rather falling a victim to that sort of propaganda so that in our mind and heart we have also begun to feel like guilty persons. And it is only an expression of that kind that has compelled this sort of Bill to be brought forward. I would suggest that our

Leader should take courage in his hands and should revert to the old method, of course I do not say for all the time, but till they have determined what should be the state of society, how they should run the society, whether we are ultimately going to fall a victim to the philosophy of the foreign land or we are going to stick to the philosophy preached by Krishna and Gandhiji. This is a good opportunity for us. If Gandhiji says that we should preserve this present form of society, those of us who are possessed of wealth, who are possessed of property should feel that they are trustees on behalf of the poor people. So this is the best opportunity to put into practice the philosophy of Mahatma Gandhi. If the Ministers draw, say, Rs. 5,000 and if they do not make any claim to a furnished house or to motor allowance or anything of that sort ; these things spread and people say, “look at the house they have got, look at the car which is provided and so on.” Why should there be such propaganda against them ? The best course would be, as they used to do in the previous regimes—they used to pay income-tax, they used to pay house rent, they used to have their own cars and get allowances according to fixed rules and regulations—now, the only amendment that I would propose is that they should voluntarily form a society of their own and should act just as Sir Ganesh Dutt Singh did—he took Rs. 4,000 but gave Rs. 3,000 away to the Trust and ultimately he was able to give lakhs and lakhs to the Patna University. Similarly it would be better if our Ministers were to do the same. They should have a control over their own salary and give out to the world that they are in no way less capable than their Secretaries. They can prove their worth above their Secretaries that while they are drawing Rs. 5,000 they are able to make a gift of Rs. 4,000 for public charity. In big cities in India, many poor people require homes to live in. There are persons who sleep on the footpath of Delhi and if such big enterprises are taken with the help of the gift—from Ministers' salaries, that will be catching the eyes of the people. That will