

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

OFFICIAL REPORT



ASSEMBLY DEBATE

PART I

FIRST VOLUME

(1951 – 1955)

(i)

C O N T E N T S

S.No.	Date and Description	Page No.
31st OCTOBER, 1951		
1.	Appointment of Temporary Chairman	1
2.	Goodwill Messages	2
3.	Signing of Register	6
4.	Rules of Election of the Permanent President	11
5.	Rules of Procedure for hearing and disposal of Election petitions	13
6.	Rules of Business and Procedure for the Constituent Assembly	14
7.	Confirmation of the Assembly Staff	15
8.	Appendices	43
1ST NOVEMBER, 1951		
1.	Goodwill Messages	44
2.	Election of the Permanent President	46
3.	Appointment of a Committee on Rules of Procedure	56
5TH NOVEMBER, 1951		
1.	Signing of Register	63
2.	Statement by the Hon'ble Prime Minister	63
3.	Resolution moved by Mr. D. P. Dhar regarding the appointment of Finance Committee, (Resolution adopted)	91

(ii)

S.No.	Date and Description	Page No.
4.	Resolution moved by the Hon'ble M. A. Beg regarding appointment of a steering Committee, (Resolution adopted).	95

6TH NOVEMBER, 1951

1.	Resolution moved by the Hon'ble M.A. Beg for the appointment of a Committee to examine the desirability or otherwise of the payment of compensation for lands expropriated under the provisions of Big Landed Estates Abolition Act.	98
----	--	----

7TH NOVEMBER, 1951

1.	Resolution moved by Hon'ble M. A. Beg for appointment of an Advisory Committee regarding Fundamental Rights and Citizenship, (Resolution adopted).	131
2.	Resolution moved by Hon'ble Prime Minister for the appointment of the Basic Principles Committee, (Resolution adopted).	146
3.	Resolution moved by Hon'ble Shri Girdhari Lal Dogra (Finance Minister authorizing the Hon'ble President to exercise the same financial and administrative powers with regard to staff and grants to the Assembly as are vested in the Hon'ble Minister, (Resolution adopted).	150

Note:- The House adjourned sine die.

24TH MARCH, 1952

1.	Condolence motions on the sad demise of King George VI and Qazi Atta Ullah, (Adopted by the House).	152
----	---	-----

(iii)

S.No.	Date and Description	Page No.
2.	Presentation of the Report of the Committee on Rules of Procedure by Hon'ble M.A. Beg.	154
3.	Hon'ble M.A.Beg's motion for extension of time for presentation of report of the Basic Principles Committee, (Adopted by the House).	155
4.	Hon'ble M.A.Beg's motion for extension of time for presentation of the report of the Advisory Committee on Fundamental Rights and Citizenship, (Adopted by the House).	157

25TH MARCH, 1952

1.	Nomination of the Representatives of Jammu & Kashmir State for the Lower and Upper House of the Indian Parliament and speeches thereon.	184
2.	Discussion on the Report of the Committee for Rules of Procedure.	205
3.	Statement made by Hon'ble Sheikh Mohd. Abdullah.	225

27TH MARCH, 1952

1.	Presentation of the Land Compensation Committee by Hon'ble M. A. Beg and the discussion thereon.	235
----	--	-----

29TH MARCH, 1952

1.	Discussion on the Report of the Land Compensation Committee presented by Hon'ble M. A. Beg and Resolution thereon (Contd.) .	264
----	---	-----

S.No.	Dates and Description	Page No.
-------	-----------------------	----------

31ST MARCH, 1952/ 19TH CHET, 2008

- | | | |
|----|--|-----|
| 1. | Discussion continued on the Resolution moved by Hon'ble M. A. Beg regarding the desirability or otherwise of the payment of compensation of to the expropriated landlords, (Resolution adopted). | 314 |
| 2. | Resolution moved by Hon'ble Prime Minister in regard to the constitution of a Committee to examine the request of State Emblem, (Motion adopted). | 326 |
| 3. | Hon'ble G. L. Dogra's Motion to accord sanction to the supplementary statement of expenditure for S.2008 an confirmation of the Gazetted appointments made by the President, Constituent Assembly, (Motion adopted). | 327 |
| 4. | Hon'ble G. L. Dogra's Motion to accord sanction to the estimates of expenditure of the Assembly for S.2009 (Motion as amended by the House was adopted). | 329 |
| 5. | Hon'ble G. L. Dogra's Motion to accord sanction to the Rules governing allowances of the Hon'ble Members, (Motion in amended form adopted by the House). | 332 |

7TH JUNE, 1952

- | | | |
|----|--|-----|
| 1. | Resolution moved by Hon'ble Sheikh Mohd. Abdullah regarding the flag for the Jammu and Kashmir State and discussion thereon. | 346 |
| 2. | Amendment moved by Mr. Qasim regarding the deletion of word "National" occurring in the Resolution. | 376 |
| 3. | (Amendment accepted). | 376 |
| 4. | (Amendment Resolution adopted unanimously). | 377 |

S.No.	Date and Description	Page No.
-------	----------------------	----------

10TH JUNE, 1952

- | | | |
|----|--|-----|
| 1. | Resolution moved by M. A. Beg for setting up a Drafting Committee, (Resolution adopted). | 381 |
| 2. | Presentation of the Interim Report of the Basic Principles Committee and discussion thereon. | 382 |

11TH JUNE, 1952

- | | | |
|----|---|-----|
| 1. | Discussion on the Interim Report of the Basic Principles Committee (Continued). | 427 |
|----|---|-----|

12TH JUNE, 1952

- | | | |
|----|---|-----|
| 1. | Discussion continued on the Interim Report of the Basic Principles Committee, (Report adopted). | 468 |
| 2. | Hon'ble D. P. Dhar's resolution regarding implementation of the recommendation contained in the Interim Report of the Basic Principles Committee and directing the Drafting Committee to place appropriate proposals before the Assembly within one month (Resolution Adopted). The House adjourned sine die. | 502 |

11TH AUGUST, 1952

- | | | |
|----|---|-----|
| 1. | Signing of the Register. | 504 |
| 2. | Condolence Resolution on the sad demise of Kh.Ghulam Hassan Bhat, (Resolution adopted). | 504 |
| 3. | Statement made by Hon'ble Sheikh Mohd.Abdullah | 507 |

S.No.	Date and Description	Page No.
14TH AUGUST, 1952		
1.	Consideration Motion in regard to the Indo-Kashmir Agreement made by Hon'ble Sheikh Mohd. Abdullah and discussion thereon.	523
19TH AUGUST, 1952		
1.	Discussion on the resolution moved by Hon'ble Sheikh Mohd. Abdullah on 14 th August, 1952, regarding Delhi Agreement, (Resolution adopted).	563
20TH AUGUST, 1952		
1.	Presentation of Drafting Committee Report with regard to the termination of hereditary ruler-ship in the State.	614
21TH AUGUST, 1952		
1.	Discussion continued on the Report of the Basic Principles Committee and the Resolution as amended by the House was passed by the Assembly unanimously	625
10TH NOVEMBER, 1952		
1.	Discussion on the Bill to amend the Jammu and Kashmir Constitution Act moved by Hon'ble M.A.Beg.	647
12TH NOVEMBER, 1952		
1.	The Jammu and Kashmir Constitution Act (Amendment) Bill was passed.	670
2.	Hon'ble Sheikh Mohd. Abdullah presented the report of the Committee.	670
3.	The Resolution passed on August 21, 1952 regarding election of the Head of the State was adopted Unanimously.	680

S.No.	Date and Description	Page No.
-------	----------------------	----------

18TH NOVEMBER, 1952

- | | | |
|----|---|-----|
| 1. | Resolution moved by Shri G.L. Dogra regarding the emoluments, allowances and privileges of the Sadar-i-Riyasat. | 681 |
| 2. | Shri G. L. Dogra laid on the Table of the House Standing Order No. 1 of 2009 | 685 |

19TH NOVEMBER, 1952

- | | | |
|----|--|-----|
| 1. | Resolution regarding the emoluments of the Sadar-i-Riyasat continued (Resolution passed). | 688 |
| 2. | Resolution regarding terms of service of the Hon'ble President (Resolution passed). | 694 |
| 3. | Resolution regarding filling up a vacant seat in the Finance Committee (Resolution passed) | 696 |

10TH APRIL, 1953

- | | | |
|----|---|-----|
| | Resolution to accord sanction to :- | |
| 1. | (a) the Budget Estimates of expenditure of the Constituent Assembly Secretariat for S.2010, and | 697 |
| | (b) the supplementary grants (Resolution passed). | 697 |
| 2. | Resolution regarding :
Substitution of item iv of the Schedule appended to the Resolution of the Constituent Assembly dated the 5 th November, 1951, (Resolution passed). | 700 |

S.No.	Date and Description	Page No.
-------	----------------------	----------

20TH OCTOBER, 1953

- | | | |
|----|--|-----|
| 1. | Adjournment motion moved by Mr.Abdul Gani Goni to suspend the business of the House till the release of members under detention (Disallowed) | 721 |
| 2. | Motion regarding the re-constitution of the Basic Principles Committee, (Motion adopted). | 725 |
| 3. | Motion regarding the re-constitution of the Advisory Committee on Fundamental Rights and Citizenship (Motion adopted). | 728 |
| 4. | Motion regarding the re-constitution of the steering Committee (Motion adopted). | 730 |
| 5. | Motion regarding the re-constitution of the Drafting Committee (Motion adopted). | 732 |
| 6 | Motion regarding the revision of grades of Gazetted and Non-Gazetted employees of the Constituent Assembly (Motion adopted). | 735 |

3RD FEBRUARY, 1954

- | | | |
|----|---|-----|
| 1. | Presentation of the Basic Principles Committee's Report | 741 |
| 2. | Presentation of the Report of the Advisory Committee on Fundamental Rights and Citizenship. | 745 |
| 3. | Note of Dissent of Mr. Abdul Gani Goni | 753 |
| 4. | Explanatory speech of Mr. Mir Qasim. | 758 |

S.No.	Date and Description	Page No.
4TH FEBRUARY, 1954		
1.	Discussion on the Reports of Basic Principles and Fundamental Rights Committee (Continued).	761
2.	Consideration Motion moved in regard to the report of the Advisory Committee on Fundamental Rights	762
5TH FEBRUARY, 1954		
1.	Discussion on the Reports of the Basic Principles Committee and Advisory Committee on Fundamental Rights and Citizenship (Continued).	797
6TH FEBRUARY, 1954		
1.	Discussion on the Reports of the Basic Principles Committee and Advisory Committee on Fundamental Rights and Citizenship (Both Reports adopted).	819
11TH FEBRUARY, 1954		
1.	Presentation of the Report of the Drafting Committee (Discussion postponed).	866
13TH FEBRUARY, 1954		
1.	Discussion on the Report of the Drafting Committee (Discussion postponed).	881
2.	Motion regarding the observance of New Kashmir Day	882

S.No.	Date and Description	Page No.
-------	----------------------	----------

15TH FEBRUARY, 1954

- | | | |
|----|--|-----|
| 1. | Discussion on the Report of the Drafting Committee (Continued). | 885 |
| 2. | Amendment to the above noted Report moved by Mr.Chuni Lal Kotwal and adopted by the House | 895 |
| 3. | Resolution moved by S.Harbans Singh Azad regarding incorporation of the annexure in clause 24 of the Report of the Drafting Committee of other such laws essential in the public interest. The resolution was adopted. | 908 |
| 4. | Resolution moved by Pt.Girdhari Lal Dogra authorizing the Government of the State for forward a copy of the said Annexure to the Government of India for appropriate action. The Resolution was adopted. | 909 |

16TH APRIL, 1954

- | | | |
|----|---|-----|
| 1. | Motion to amend the Annexure to the Report of the Drafting Committee. | 912 |
| 2. | Motion to sanction the Assembly Budget. | 914 |
| 3. | Motion for proposing the name of representative of the State for the membership of the Council of States. | 915 |

29TH MARCH, 1955

- | | | |
|----|--|-----|
| 1. | Estimates of Expenditure of the Constituent Assembly for the year 1955-56. | 922 |
| 2. | The Constitution (Application to Jammu and Kashmir) Order , 1954. | 923 |

S.No.

Date and Description

Page No.

6TH APRIL, 1955

1. Motion moved by Mr. G. L. Dogra, Finance Minister that the Assembly accords its concurrence to the application of certain further provisions of the Constitution of India to the State (Motion adopted). 939
2. Motion moved by G. L. Dogra in respect of the bill further to amend the Jammu and Kashmir Constitution Act, 1996 (Motion adopted). 948
3. Motion moved by G. L. Dogra in respect of the amendment to be made in the Rules governing the allowances of the members of the Jammu and Kashmir Constituent Assembly, (Motion adopted). 949

EXTRA

Page	Line	Volume I Read	For
25	S. No. 2	The President shall cease to hold office as such if he ceases be a member of the Assembly	X
36	15	16 – 1 / 3 - 19	16 1 / 3 9
36	16	12 – 1 / 3 - 15	12 1 / 3 - 15
36	17	12 – 1 / 3 - 15	12 1 / 3 - 15
35	1 to 3 49	Resolution not discussed: If a resolution which has been admitted is not discussed during the Session, it shall be deemed to have been withdrawn.	
38	26 Note:-	The star mark before the names of the Hon'ble Member where given denotes that the original speech of the Member was delivered in Urdu and English translation thereof has been incorporated in this Report for original speech Urdu proceedings may be referred to	
169	9 Note :-	The star mark before the name of an Hon'ble member indicates that the speech was delivered in Urdu and the translation thereof has been incorporated in the details	
169	10	the eht	
180	32	Sardar Kulbir Singh :- Mr. Sh. Koshak President I support the Bakula Sir; I Strongly support the	
182	5	gives gips	
601	24	Star MarlsX	
655	22	Total :- Rs.109000 Rs.1,00000	

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

Wednesday, the 31st October, 1951

The first meeting of the Constituent Assembly of Jammu and Kashmir took place in the Constituent Assembly Chamber, Srinagar at eleven of the clock.

Secretary Constituent Assembly (Mr. Hiranand Raina) : The proceeding for the day are commenced.

Appointment of Temporary Chairman

***Hon'ble Sheikh Mohammad Abdullah (Prime Minister) :** Gentlemen : Kindly allow me to request on my behalf and on behalf of this House Maulana Mohammad Saeed to occupy the chair temporarily and to commence the proceedings.

Maulana Sahib is one of the torch-bearers of our movement. He was a professor in the College in 1931, when we raised our voice for freedom. Prior to this he received education in different institutions in India and had the occasion to study thoroughly the Indian Politics in its different phases. In 1931, when the struggle for freedom was launched, he was working as a professor in the College, and was watching our freedom movement consistently. Prior to 1931, he always showed keen interest in our freedom struggle and acquainted the whole world with the prevailing conditions by the force of his pen. The movement grew and the Maulana who could no longer tolerate to continue in Government service gave it up and joined our movement.

We need not dilate upon the hold and efficient manner in which he pushed forward the movement for freedom. The whole world is already aware of it. His literary talent, breadth of vision and sincerity of action are all before you. The Maulana has guided the freedom movement at every critical. Stage and played a magnificent part in steering the ship ashore through severe storms. It would, therefore, be in the fitness of things that the Maulana should occupy the Chair temporarily to commence the proceedings of this House. **(Cheers).**

Note:- The Star mark (*) before the names of the Hon'ble Members wherever given denote that the original speech of the Members was delivered in Urdu and English translation thereof has been incorporated in this Report. For original speech Urdu Proceeding may be referred to.

Hon'ble Bakshi Ghulam Mohammad (Deputy Prime Minister) :

I second the proposal moved by the Sher-i-Kashmir. The more is said in praise of Maulana the less it is. (Cheers).

Note:- At this stage Maulana Mohammad Saeed who was conducted to the Chair by the Hon'ble Prime Minister occupied the Chair amidst cheers.

GOODWILL MESSAGES

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : The first item on the agenda relates to the reading of the message of good will sent by Indian leaders and other eminent persons from all over the country on this auspicious occasion. I would request the Secretary, Constituent Assembly, to read out these message to the House.

Note:- Pt. Hiranand Raina, Secretary Constituent Assembly, read out the goodwill messages printed at the end as Appendix 'A'.

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) :

Comrades and Friends : Before taking up the business of the day, I would like to say a few words of welcome to you all. It is really fortunate that on this historic occasion when you have assembled here, I have been granted the privilege of not only extending welcome to you but also offering my sincerest congratulations. The hour, when you have assembled here to decide the fate of this country demands that we with due humility bow our heads before the Almighty and thank Him for the blessings. He has bestowed on us. He has given us this unique opportunity when we have assembled here with full power to give practical shape to our wishes and desires which we cherish for our motherland.

Gentlemen, to understand the significance of this occasion, you should think of those bygone days when this country was under the clutches of slavery

and helplessness for centuries together, Even when you and I were not on the scene, millions of people might have been born whose hearts must have throbbed with hopes and desires to raise their country from its present miserable plight to a status which nature has destined for it, but their helplessness stood in the way of the fulfillment of their cherished desires. They suppressed the seething fire of their desires in their bosoms for years together. Dejections cooled down the flames and turned them into ashes which blew with sighs. Those people passed away without seeing any change. Would you imagine; if some of them could come back; if time could ebb back; and if they could witness the scene of this House, where you have assembled with sovereignty and will full confidence of the nation, what would have been their feelings. This occasion is of great importance to us today.

Before making the best of this opportune time we ought to think as to what the past events and history demand and to day too, what this occasion demands of us. The first thing towards which I wish to draw you attention is that a Constituent Assembly is a creation of the new age, and the best instrument invented by the new age of progress for ascertaining the collective will and ambition of the people. But in reality the framing of a new Constitution at the time of a newly won freedom is not a new thing, and so the Constituent Assembly must have existed alongside with the changes of Governments. With the change of the old regimes, the founders of new regimes must have pondered over the shape of the new edifice to be raised over the ruins of the old structure. May be that all such bodies were not given the name of a Constituent Assembly, and the number of gatherings, which regularly met under this name hardly exceeded a dozen. But there is no gain saying of the fact that every new party which came into power must have tried to hammer out a Constitution for shaping their future according to their heart's desire, though not in accordance with the present standards. In this manner at the termination of each old regime and beginning of the new, the presence of Constituent Assembly has been an essential concomitant of revolution. Today we have assembled here to fulfill this need. To frame a new Constitution in a Constituent Assembly is an important as to rebuild

a house after dismantling an old one. Here the weather considerations are also to be borne in mind especially when the time for snowfall is approaching. If a person dismantles his house on the eve of a snowy season with the view that it is too weak to resist the near future it becomes all the more essential to rebuild it. The problem of Kashmir resembles a house dismantled in a snowy season.

For the last four years one part of Kashmir is in the hands of the enemy. At the time of enemy attack the dilapidated structure of the old order could not withstand the torrent and tumbled down depriving the country of any befitting constitution. For the last four years we have been managing things by collecting remnants of house of old order and building a few tiny huts thereof as refugees. But if at all, a mild breeze blew the roof fell down, then the door and then the walls with the result that we could not do what we wanted as there was no scope in that constitution. The dilapidated condition of this house of constitution created obstacles for us at every step. After four years we felt the need to throw aside the rubbish and set up a new system. To finalize this new system we have assembled here.

Let me remind you of the sentence of **Sher-i-Kashmir** which he repeated, at Lake Success, Delhi and in different meetings in Kashmir which runs as :-

“No power on earth can decide the fate of Kashmir and its future: neither the U.N.O. nor Security Council, nor the Government of India or Pakistan can impose any decision. It is the right of the people of Kashmir to decide and they alone can do it”.

In the light of this saying of Quaid-i-Azam, I want to impress on you the fact that we have assembled here to decide the fate of Kashmir, no matter whether or not the world recognize our Constituent Assembly. It is said that our decision regarding Kashmir would be an obstacle in the path of that plebiscite which the U.N.O. contemplates. But the world has seen that the U.N.O. could not decide anything during these four years. This type of attitude has made it more complicated. It seems clear that just as the efforts to decide Kashmir issue have failed at New York or Lake Success Conferences; it will meet the same fate at Paris also. I find no immediate prospect of a free and impartial plebiscite in

Kashmir as our opponent, Pakistan, is not willing to accept those essential conditions that we have put forth so often. So there is no way out to decide this issue other than the decision of this Assembly. This Assembly will decide the fate of the nation. There can be no other just decision but the decision of this Assembly and no decision other than this can either be applicable or thrust on us. This Assembly enjoys the confidence of every adult man and woman, and is well equipped with full powers to decide whether Kashmir will accede to India or Pakistan.

The elected members of this House know, the manifesto that we put forth at the time of election which said that the National Conference demands vote for the confirmation of its policy and the steps it had taken during the last four years and intends to take in future. Is it not a fact that during the elections the National Conference openly declared that it had completed the accession of Kashmir with India and she seeks the vote of the electorate for the ratification of this step along with other measures adopted by it. We asked for votes in clear terms from people and the result was that from amongst the voters of that area about whose sympathies and support Pakistan was shouting from house top, not a single person could be found whom the voters could set up as a candidate to stand against the National Conference. This is the decision of voters in confirmation of the steps taken by the National Conference. This Assembly has come into being according to the decision of the voters; so whatever decision will be taken in the House will be the final decision of the adult men and women of this country. If the decisions of this assembly are not final, then where is the other Assembly that will decide the future of this country? In spite of these facts we agree, as the attitude of the Government of India is that we would not be an obstacle in the path of U.N.O. and there is no need for us to be an obstacle in their path because that path is a far fetched one. That path is of international haggling and beyond our reach. As far as the people of Jammu and Kashmir State are concerned, their path is of their own liberty. They will follow that; they will achieve that; and they will save themselves to become a stake of a chess-board. Those diplomats should assure themselves that we would not be an obstacle in

their way, but we would not allow them too to be an obstacle in our path. Gentleman, in my opinion these are a few things which you should keep in view while taking your first step.

Another thing which you should keep in view is that the result of the decisions you take here will not affect our country only for a year or two or ten or twenty years. But will leave an impression on the whole future history of Jammu and Kashmir. Now you have to shoulder many great responsibilities for you have the pride to enjoy the confidence and support of every adult person of the State. You have been given full and final powers by the Indian Constitution and the people of Jammu and Kashmir. This is no ordinary powers, because there is no superior human power more potent than this. While you enjoy the great power of people's confidence you have to face the great responsibilities too. Had the people not vested you with sovereign power but given you some restricted power your duties and responsibilities would also have been lighter. But by allowing you full powers and boundless confidence they have placed us in a difficult position. Now you are answerable before them, before those nations of the world who look unto you this time and before God who afforded you this opportunity. Anybody may deny the importance of this fact outwardly but the reality is which every heart feels that the powers you brought with you here are of very great importance and is final. I hope that you keeping all these things in view would begin your work. You will add to the distinctive successes of the National Conference with your hard work, ability and struggle and prove that the National Conference was not only a party of agitators; a party of emotional orators and of hooligans who would fill the jails, but that when time demanded it could shoulder the responsibilities of running a Government and framing a constitution as efficiently and ably as it had led the sensational movements. You, by means of your attitude and ability and by using parliamentary ways in a polished manner can be an example and a light house tower for the generations to come. I am sure you will keep all these things in view.

Not taking more time of the House in my speech I finally thank you for the honour you did me today by giving a chance to stand before you here. In my

opinion everybody amongst you is worthier than myself to fulfill the duties assigned to me today. Besides, it is your comradely honour that you have singled me out and bestowed this honour upon me I do not find suitable words to thank you for this honour, so I use the simple and formal words “thanks” but I hope you will accept these sentiments in the spirit in which these have been offered.

SIGNING OF REGISTER

Hon’ble Maulana Mohammad Saeed (Temporary Chairman) : Now begin the proceedings according to the agenda. The first item on the agenda is that you will now be considered the members of the Constituent Assembly in a Constitutional way when you put down your signatures on the **Golden Register of the House**.

Note:- Temporary Chairman signs the Register.

Note:- Pt. Hiranand Raina, Secretary Constituent Assembly,
called out the name of each member turn by turn and
all hon’ble members signed the Register in the order
noted on the next page :-

DEBATES

31ST October, 1951

**Names of the Hon'ble Members of Jammu and Kashmir
Constituent Assembly who signed the Register:**

S.No.	Name of the Member	Name of the Constituency
1	2	3
1.	Hon'ble Maulana Mohammad Saeed Masudi	Amira Kadal
2.	„ Sheikh Mohammad Abdullah	Hazaratbal
3.	„ Bakshi Ghulam Mohammad	Saffa Kadal
4.	„ Mirza Mohammad Afzal Beg	Anantnag
5.	„ Pt. Girdhari Lal Dogra	Jasmergarh
6.	„ Pt. Sham Lal Saraf	Habba Kadal
7.	„ Mr. Abdul Aziz Shawl	Rajouri
8.	„ Khawaja Abdul Gani Trali	Rajpura
9.	„ Mr. Abdul Gani Goni	Bhalesa Bhujwal
10.	„ Syed Abdul Qadus	Biruwa
11.	„ Bakshi Abdul Rashid	Charar-i-Sharief
12.	„ Kh. Abdul Kabir Khan	Bandipora Gurez
13.	„ Kh. Abdul Khaliq	Saniwara
14.	„ Syed Allaudin Gilani	Handwara
15.	„ Mr. Assad Ullah Mir	Rambam
16.	„ Pt. Bhagat Ram	Landar-Tikri
17.	„ Bhagat Chhajju Ram	Ranbirsinghpora
18.	„ Sardar Chela Singh	Chhamb

19.	„ Shri Chuni Lal Kotwal	Bhadarwah
20.	„ Mr. Durga Prashad Dhar	Kulgam
21.	„ Kh. Ghulam Ahmad Mir	Dachinpora
22.	„ Master Ghulam Ahmad	Haveli
23.	„ Kh. Ghulam Ahmad Dew	Doda
24.	„ Pirzada Ghulam Gilani	Pampore
25.	„ Kh. Ghulam Hassan Khan	Narwah
26.	„ Kh. Ghulam Hassan Malik	Nandi
27.	„ Kh. Ghulam Hassan Malik	Devasar
28.	„ Pir Ghulam Mohammad Masoodi	Tral
29.	„ Mr. Ghulam Mohammad Sadiq	Tankipora
30.	„ Mirza Ghulam Mohammad Beg	Naubug Brang Valley
31.	„ Kh. Ghulam Mohammad Butt	Pattan
32.	„ Kh. Ghulam Mohi-ud-din	Khan Sahib
33.	„ Kh. Ghulam Mohi-ud-din Hamdani	Khanyar
34.	„ Mirwaiz Ghulam Nabi Hamdani	Zadibal
35.	„ Kh. Ghulam Nabi Wani	Derihgam
36.	„ Kh. Ghulam Nabi Wani	Lolab
37.	„ Kh. Ghulam Qadir Bhat	Kangan
38.	„ Kh. Ghulam Qadir Masala	Drugmulla
39.	„ Kh. Ghulam Rasool Sheikh	Shopian
40.	„ Kh. Ghulam Rasool Kar	Hamal
41.	„ Kh. Ghulam Rasool Karipak	Kishtwar
42.	„ Hakim Habibullah Khan	Sopore
43.	„ Mr. Hem Raj	Ramnagar

44.	„ Sardar Harbans Singh Azad	Baramullah
45.	„ Syed Ibrahim Shah	Kargil
46.	„ Shrimati Ishar Devi Maini	Jammu City North
47.	„ Pt. Janki Nath Kakroo	Kothar
48.	„ Kh. Jamal-ud-din	Drahal
49.	„ Moulvi Jamait Ali Shah	Mendhar
50.	„ Mr. Kushak Bakula	Leh
51.	„ Mr. Kishen Dev Sethi	Nowshera
52.	„ Sardar Kulbir Singh	Poonch City
53.	„ Kh. Mohammad Afzal Khan	Uri
54.	„ Sheikh Mohammad Akbar	Tangamarg
55.	„ Kh. Mohammad Anwar Shah	Karnah
56.	„ Kh. Mohammad Ayub Khan	Arnas
57.	„ Syed Mohammad Jalali	Badgam
58.	„ Peer Mohammad Maqbool Shah	Ramhal
59.	„ Kh. Mir Qasim	Doru Shahabad
60.	„ Kh. Mubarik Shah	Magam
61.	„ Mr. Mansukh Raj	Reasi
62.	„ Mr. Mahant Ram	Basohli
63.	„ Pt. Moti Ram	Udhampur
64.	„ Mahasha Nahar Singh	Bishnah
65.	„ Kh. Noor Dar	Khowapora
66.	„ Kh. Noor-ud-din Sufi	Ganderbal
67.	„ Major Piara Singh	Kathua
68.	„ Mr. Ram Chand Khajuria	Bilawar

69.	„ Lala Ram Piar Saraf	Samba
70.	„ Smt. Ram Devi	Jammu City South
71.	„ Mr. Ram Rakha Mal	Kahanachak
72.	„ Wazir Ram Saran	Jandrah Garota
73.	„ Pandit Ram Lal	Akhnoor
74.	„ Mr. Sagar Singh	Parmandal
75.	„ Kh. Sana Ullah	Pulwama

***Hon'ble Maulana Mohammad Saeed (Temporary Chairman) :**

After signing the Register you are the regular members of the House and can participate in the proceeding of the House. Now begins the normal proceeding. I would request Mr. Beg that he should place the Rules and Procedure for the election of the President before the House.

Rules for Election of the Permanent President.

Hon'ble Mirza M. A. Beg : Sir, you said just now that the Constituent Assembly is complete in its sovereignty and powers. In respect of powers there will be no other institution more superior than this in the country. This institution can frame laws and rules of business and procedure and it can elect the permanent President of the House. For the election of a permanent President short rules have been framed and the draft is before the House. According to this any learned member of the House can stand as a candidate for this high office. Any hon'ble member can suggest the name of a candidate and with it any other hon'ble member can second it. It is said in these rules that nomination forms must reach you today before 4 p. m. But Sir, you will have to make sure if the person to be elected as President is willing to accept it. Therefore, I move that the following Rules may be adopted.

THE ASSEMBLY HEREBY RESOLVES THAT THE FOLLOWING RULES FOR THE ELECTION OF PRESIDENT BE ADOPTED :

(1) At any time before 2.30 p.m. today any member may nominate another member for election by delivering to the Temporary Chairman or to a person appointed by him a nomination paper signed by the proposer and by a third member as seconder and stating :-

- (a) the name of the member nominated, and
- (b) that the proposer has ascertained that such member is willing to serve as Chairman, if elected.

(2) At any time to be appointed by the Temporary Chairman the Temporary Chairman shall read out to the Assembly the names of the member who have been duly nominated together with those of their proposers and seconder and, if only one member has been so nominated, shall declare that member to be duly elected. If more than one member has been nominated the Assembly shall proceed to elect the Chairman by ballot on a date to be fixed by the Temporary Chairman.

(3) For the purpose of rule (2) a member shall not be deemed to have been duly nominated or be entitled to vote, if he and his proposer and seconder have not signed the Assembly Register as members of the Assembly.

(4) Where only two candidates are nominated, the candidate who obtains at the ballot the large number of votes shall be declared elected. If they obtain an equal number of votes, the election shall be by the drawing of lot.

(5) Where more than two candidates have been nominated and at the first ballot no candidate obtains more vote than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election, and balloting shall proceed, the candidates obtaining the smallest number of votes at each ballot being excluded from the election, until one candidate obtains more votes than the remaining candidates, as the case may be, and such candidate shall be declared elected.

(6) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under rule (4) the determination as between the candidates whose votes are equal of the candidate who is to be excluded shall be by the drawing of lots.

Hon'ble S. L. Saraf :- Sir, I second the motion which has been put forth by the Hon'ble M. A. Beg.

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : The question is that should we adopt the Rules of Procedure regarding the election

of the permanent President which the Hon'ble mover has put forth. Those who in favour should say '**Aye**'

House : (In majority) "Aye".

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : Those who are against it should say '**No**'.

(The House kept silent).

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : The 'Ayes' have it, so the rules of procedure regarding the election of permanent President are adopted.

Hon'ble Maulana Mohammad Saeed (Temporary Chariman) : So far we had no such rules and regulations according to which we could elect our President. Now we are in a position to elect our permanent President. I want that the proposal which you want to make regarding the election of the President should reach the Secretary, Constituent Assembly by 4 p.m. today. Everything is written on the form. One member can propose and another can second it and the candidate should express his acceptance.

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : You know, there are objections regarding the elections and there is an authority for it is disposal and examination which being appointed by the Assembly so this Assembly, will appoint an authority. I will request Mr. D.P. Dhar to put forth his motion which is regarding the appointment of that authority.

Rules of Procedure for hearing and disposal of Election Petitions.

Mr. D. P. Dhar : I beg to move :

This Assembly resolves that :

(a) an election petition against any returned candidate may be presented to the President of the Constituent Assembly by any candidate or elector on any one or more of the grounds specified in rule 65 of the said Rules within 30 days from the 31st of October, 1951;

(b) the following rules adopted for hearing and disposal of such election petition.

Sir, you have already explained the necessity of this resolution for which I am grateful to you. I only want to draw your attention and the attention of the Hon'ble members to that fact that this Resolution is the first affirmation of the sovereignty and competence of this House to deal with the matters which are strictly within its purview. As such the enclosures to this Resolution provide for machinery, form and the procedure for hearing, examining and disposal of election petitions.

Hon'ble M. A. Beg : Sir, I second the motion.

Note :- The Rules will be found in Appendix B at the end.

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : The Hon'ble mover has placed before you the rules regarding the "Election Petition". Those who are in favour should say "Aye".

House : (In majority) "Aye".

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : Those who are against it should say "No".

(The House kept silent).

Hon'ble Maulana Mohammad Saeed (Temporary Chariman) : The "Ayes" have it and so the Resolution is adopted.

Before commencing the next item of the agenda I want to make it clear that the nomination forms regarding the election of the permanent President can be got from the office of the Secretary, Constituent Assembly.

Rules of Business and Procedure

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) :

It is necessary to have Rules of Business for this House. So far there were no such rules, so in this connection a draft has been framed. I would request Kh. G. M. Sadiq to move the resolution in this respect.

Kh. G. M. Sadiq : Sir, so far we had no rules and regulations for the regular functioning of this House. We have a few rules of the old Assembly but the nature of the work of the Assembly is such that the old rules cannot serve any purpose. Therefore, I submit draft of the Rules of Procedure before you and move the following resolution:-

"Resolved the pending the framing of Rules of Business and Procedure for the Constituent Assembly, the Rules forming an annexure to this resolution may be provisionally adopted for the conduct of Business in the Assembly.

(Note: - The text of the Rules will be found at the end as Appendix C).

Hon'ble G. L. Dogra: Sir, I second the motion.

Hon'ble Maulana Mohammad Saeed (Temporary Chariman) : The Hon'ble mover has moved a resolution regarding the adoption of the provisional Rules of Business and Procedure. Those who are in favour say 'Aye'.

House : (In majority) 'Aye'.

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : Those who are against it should say 'No'.

(The House kept silent).

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : The "Ayes" have it and so the Resolution is adopted.

Confirmation of the Assembly Staff

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : Now on the agenda is a resolution regarding the confirmation of the Assembly Staff. I would request the Hon'ble S. L. Saraf to move the resolution.

Hon'ble S. L. Saraf : Sir, it was necessary that some staff should be appointed to run the work of the Constituent Assembly. It is, therefore, moved that :-

"Resolved that this Assembly do confirm existing organization of the office of the Constituent Assembly pending the final decision of the Assembly". (C – Appendix D - Details of Staff).

Hon'ble Bakshi Ghulam Mohammad : Sir, I second the motion.

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : The Hon'ble mover has moved a resolution regarding the confirmation of the Assembly Staff. Those who are in favour will say 'Aye'.

House : (In majority) 'Aye'.

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : Those who are against it should say 'No'.

(The House kept silent).

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : The "Ayes" have it so the resolution is adopted.

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) : As the business fixed for the day is over, I adjourn the House till tomorrow, Thursday, the 1st of November, 1951.

The House accordingly adjourned till Thursday, the 1st November, 1951.

APPENDIX A

Message of Goodwill

1. **Message from the President of the Indian Union :** On this historic occasion of the inaugural meeting of their Constituent Assembly I send my sincerest greetings to the people of Kashmir and their beloved leader Sheikh Abdullah and hope that the Assembly will be guided in its deliberations by the single aim of shaping the life of the people of Kashmir as to make them happy and prosperous.

2. **Message from Shri Yuvaraj Karan Singh Ji Bahadur to the Jammu and Kashmir Constituent Assembly: 5th Katik, 2008/ 31st October, 1951 :** It gives me great pleasure to send my greetings and congratulations to you on this great day in our history, for which we have waited for many years when the chosen representatives of our people have gathered for the first time to embark upon the momentous task of framing a Constitution for our country.

Alongside the rejoicing that mark this historic day and throughout your deliberation, you must fully realize grave responsibilities that devolve upon you as representatives of the people. It is a sacred trust that has been reposed in you. You are the architect of the future, and the destiny of the people will be greatly influenced by your deliberations in this Assembly.

Yours is by no means an easy or simple task, It is one that requires the whole-hearted cooperation and support of the people and I trust that all sections will bury their past differences and bickerings to face the common problems that confront us all. I am confident that under the able guidance and statesman like leadership that you so fortunately possess, you will rise equal to the difficult and delicate task that lies ahead of you.

I wish you all success in your deliberations and I sincerely hope that you will evolve a Constitution worthy in all respects of the great traditions of our ancient land.

3. Message from the Hon'ble Shri Muvalankar, Speaker Indian Parliament : Very happy Jammu and Kashmir people exercising birth right of self-determination through Consenbly Hope Consenbly will frame Constitution guaranteeing equality before Law. But we must remember that mere letter of the Constitution will not bring what we desire we must cultivate spirit of democracy and I pray Almighty will give us all strength to acquire it.

4. **Message (Telegraphic) from Hon'ble Mr.Jawahar Lal, the Prime Minister of India:** I send you greetings and good wishes on the memorable occasion of the first meeting of your Constituent Assembly.

5. The Hon'ble Shree C. Rajagopalachary, Minister for Home Affairs: (For the first meeting of the Jammu and Kashmir Constituent Assembly on 31st October, 1951). Best Wishes.

6. **Message from the Hon'ble Shri N. Gopalaswami Ayyangar :** As an old friend and well wisher of the people of Jammu and Kashmir, it gives me great please to send them my sincerest greetings on the occasion of the inauguration of their Constituent Assembly. The Assembly has been elected on the basis of Adult franchise and reflects the unanimity of opinion in the State on the major issues confronting it today. The commencement of the first session of the Assembly marks the fulfillment of the process of democratization, which, however, restricted a form started twelve years age, during the time when it was my privilege to function as the Prime Minister of the State. Ever since I came into contact with the people of Jammu and Kashmir it has struck me that their reaction to political fundamentals is more pronounced and better regulated, that they have a more lively realization of leadership and discipline, and that the rank and file exhibit a greater loyalty to those whom the acknowledge as their guides in political actions than perhaps in any other part of India. I have no doubt, therefore, that the

representatives gathered in the Constituent Assembly will order their proceedings and reach their decisions with a adequate and sober realization of their responsibilities and of the magnitude of the issues that await their consideration. The proper solution of these issues which affect the people of both Jammu and Kashmir and the rest of India demands statesmanship, goodwill and sense of mutual cooperation. The age long affection which comes of a common culture loyalty to high ideals and strong ties based upon centuries of intimate association will continue to bind Kashmir with the rest of India. At the insistent request of the Ruler and the representative leaders of the people of Jammu and Kashmir, India accepted the solemn instrument of October Twenty Seventh, 1947. On the basis of this accession the State became one the Constituent Units of the Union under the Constitution of India; and as indicated in that Constitution, the Constituent Assembly has been convened for the purpose of framing a Constitution for the State. The people of the State have my warmest wishes for accomplishing this task of great moment with credit to themselves. May the deliberations of the Assembly conduce to their greater happiness and prosperity and to the fulfillment of their destiny as honoured partner in the Indian Union.

7. Hon'ble S. Baldev Singh, Defence Minister: My heartfelt greetings to Kashmir Consenbly and prayers that its work under the guidance of Kashmir's illustrious leader Sheikh Abdullah may be crowned with success.

8. Hon'ble K. M. Munshi, Food Minister : Wish Constituent Assembly every success in building up new Kashmir in close cooperation with the rest of India.

9. Hon'ble Mr. Ajit Parshad Jain, Minister for Rehabilitation : I am glad to learn that your Constituent Assembly will meet on the 31st October and subsequent dates, to decide the fate of Kashmir, and its future political structure.

Kashmir has passed through difficult day but it has stood unflinchingly for self-determination. The freedom loving Kashmiris have refused to be coerced. Although a part of Kashmir is yet not free to exercise self-determination yet this great Assembly which has been elected by adult franchise has all the qualities to decide the great problems facing the Kashmir. I wish and pray that the members of the Constituent Assembly should proceed boldly and courageously undaunted by threats and fears and determine the future of the great and beautiful land of Jammu and Kashmir to its best advantage.

Message from their Excellencies the Governors of the States in India :

1. His Excellency Maharaja of Bhavnagar, Governor of Madras: On behalf of the Government and people of Madras State, I sent my sincere greetings and best wishes for the success of the Jammu and Kashmir State Constituent Assembly, that is being convened on 31st October.

2. His Excellency Raja Maharaj Singh, Governor of Bombay : I wish all success to the Constituent Assembly.

Thirty first October will always be remembered as a great day in the history of Jammu and Kashmir. Through this Constituent Assembly the people of this ancient land so famous in the annals of India will give to themselves a free Constitution. Kashmir today presents wonderful example of union of hearts between different communities and all Indians will send them warmest greetings and best wishes to their fellow citizens of Jammu and Kashmir for success in their national endeavour.

3. His Excellency the Governor of U.P. : His Excellency hopes Constituent Assembly deliberations will be successful and will conduce to the peace and well being of the citizens of the State.

4. His Excellency the Governor of Punjab : I send my heartiest felicitations and good wishes on the auspicious occasion of

the first meeting of Constituent Assembly and wish its deliberations complete success.

5. His Excellency Mr. Aney, Governor of Bihar : The opening of the Constituent Assembly opens a new epoch in the History of Kashmir. India will keenly watch the progress of the Assembly and wish it to develop into an instruments to link the two people together indissolubly. Wish Kashmir and its people peace, plenty and prosperity.

6. His Excellency the Governor of Orissa : His Excellency the Governor of Orissa wishes Consembly success.

7. His Excellency Mangaldas Pakwasa Governor of Madhya Pradesh : There is no doubt that the Constituent Assembly will well and truly make the foundation of strong and pure democratic rule and obtain by its work the goodwill and the blessings of the people. May God bless the good work with good results.

Message from Chief Ministers of the States of India :

1. Hon'ble Mr. Kumaraswami Raja Chief Minister of Madras: I congratulate the people of Jammu and Kashmir on the successful realization of their objective of self-determination; which has been given expression to in the form of the Constituent Assembly of Jammu and Kashmir, which they have constituted by election of their popular representatives. I am glad that the first meeting of the Constituent Assembly is going to be held on the 31st October, 1951, which will be an eventful day of significance and importance in the annals of Jammu and Kashmir and the people. I hope that the first foundations of the real democracy lad in the shape of the formation of the Constituent Assembly will stand in good stead for the erection of the future edifice thereon, for promoting the welfare and happiness of the people. May God crown the aspirations and endeavours of the people of Jammu and Kashmir with success and glory even as He has already designed that region as a spot of beauty, grandeur and grace.

2. **Hon'ble Mr. B. G. Kher, Chief Minister of Bombay:** I congratulate the people of Jammu and Kashmir on convening Constituent Assembly to determine future of State. Its first meeting is an epoch making event in the history of struggle for self-determination. May it carry on its proceedings with wisdom and statesmanship under Sheikh Abdullah's able leadership. My wishes.

3. **Hon'ble Mr. B. C. Roy, Chief Minister of West Bengal :** My sincerest good wishes for a successful session of Jammu and Kashmir Assembly. I am sure Assembly will be highly effective under wise guidance of Sheikh Abdullah.

4. **Hon'ble Shri Sree Krishna, Chief Minister of Bihar :** I have very great pleasure in sending the following message: The meeting of the Constituent Assembly of Jammu and Kashmir is truly historic even for decades. The people of Jammu and Kashmir had to endure autocratic rule, under which their many sided genius could not find full expression and when freedom came to the rest of the country in 1947 the people of Jammu and Kashmir had to pass through a severe ordeal, before they could move forward towards political and social progress. But thanks to the quality of the people and the wise, courageous and inspiring leadership with which they have been blessed, they have made tremendous strides during the last four years and in the matter of communal harmony and agrarian reform Jammu and Kashmir is a model for the whole country, I am confident that the people of Jammu and Kashmir will give to themselves through their Constituent Assembly a Constitution which will foster all their virtues and under which they will build up a new society based on freedom for want of social justice, liberal culture, and true good will among men. On the occasion of its inaugural meeting, I send to the Constituent Assembly my best wishes for the success in its deliberations.

5. **Hon'ble Shri Ravinshankar Shukla, Nagpur :** On behalf of my Government and the people of Madhya Pradesh I send to people and the Government of Kashmir sincere greetings and congratulation on the convening of the Assembly and invoke the blessings of Almighty on its deliberations.

6. Hon'ble Mr. Visnuram Modhi, Chief Minister of Assam : I on behalf of myself, my colleagues, and people of Assam send our Good wishes and heartiest greetings to the members of the Consemby at its first meeting for successful framing of the Constitution benefiting Kashmir and India. May such Constitution lead Jammu and Kashmir to progress and prosperity with full association of rest of India.

Messages from the Hon'ble Speakers of the State Assemblies:

1. Hon'ble Mr. Iswar Dass Jalan, Speaker of West Bengal : On the momentous occasion of the first meeting of the Kashmir Constituent Assembly I send my sincerest good wishes for a successful outcome of its deliberations. I do hope by solving the problem facing Kashmir today. The Constituent Assembly will not only cement the bond between Kashmir and India but will also pave the way for and promote the cause of a lasting peace throughout the world.

2. Hon'ble K. S. Firedea, Speaker of Bombay Legislative Assembly : I am extremely glad to note that the Constituent Assembly of Jammu and Kashmir is holding its first meeting on 31st October, 1951. the people of Jammu and Kashmir have striven very hard and fought against odds to establish their inherent right to frame their own constitution. Under the able guidance of Hon'ble Mr. Sheikh Abdullah, the Constituent Assembly will be crowned with success in framing the constitution to establish a democratic system of Government dealing justice, social, economic and political to all its citizens and securing to the people liberty of thorough expression, belief, faith and worship. I herewith send my hearty greetings to the members of the Constituent Assembly on this auspicious occasion.

3. Hon'ble Mr. Nofisulhassan, Speaker of U. P. : Please convey Uttar Pradesh Legislative Assembly's good wishes to your Consemby on its inauguration, May God bless the Consemby with wisdom and foresight in framing a true democratic Constitution for Kashmir.

4. Hon'ble Mr. Vindhyeshwari Prasad Verma, Speaker of Bihar : I most heartily congratulate the authorities who, while facing extremely difficult

and uphill task have succeeded in establishing the Constituent Assembly for Jammu and Kashmir and I send forthwith my best wishes on the eve of its inaugural session. May the Constituent Assembly succeed in forging a Constitution for Jammu and Kashmir which may bring everlasting peace and prosperity to its inhabitants and may the people have the courage and fortitude to translate the Constitution into full-fledged action.

5. Hon'ble Speaker of Orrisa : Heartiest Congratulations, another glorious chapter opens in the historic march of Kashmir people towards democracy, May God guide the deliberations of the Consembly and crown its labours with success.

APPENDIX B

“Whereas it has been provided in rule 64 of the Jammu and Kashmir Constituent Assembly Election (Part II) Rules, 2008, that no election shall be called in question except by an election petition presented to such authority as may be appointed by the Constituent Assembly, which shall also determine the procedure for the hearing and disposal of such petitions;

This Assembly resolves that :

(a) an election petition against any returned candidate may be presented to the President of the Constituent Assembly by any candidate or elector on any one or more of the grounds specified in rules 65 of the said Rule within 30 days from 31st of October, 1951;

(b) the following rules be adopted for hearing and disposal of such an election petition :

(1) An election petition shall be deemed to have been presented to the President when it is delivered to the President or to any officer appointed by him in this behalf:

(a) by the person making the petition; or

(b) by the person authorized in writing in this behalf by the person making the petition; or

(c) by registered post;

(2) **Deposit of Security** : At the time of the presentation of the petition, the petitioner shall deposit the sum of rupees one thousand in cash or in Government promissory notes of equal value at the market rate of the day as security for costs of the case.

(3) **Reference to Election Tribunal** : (1) If the provisions of the proceeding rules are not complied with, the President shall dismiss the petition:

Provided that if the person making the petition satisfies the President that sufficient cause existed for his not presenting the petition within the period prescribed, the President shall have discretion to condone the failure to comply with that rule.

(2) If the petition is not dismissed under the proceeding sub-rule the President shall, if he is satisfied that sufficient grounds exists for such action, refer the petition to the Election Tribunal consisting of one or more persons to be appointed by the President for hearing and disposal in accordance with these rules.

(4) **Report of the Election Tribunal :** The conclusion of the hearing of an election petition, the Election Tribunal shall make a report to the President.

(5) Attendance of witnesses and production of documents at enquiries into petitions : (1) The Election Tribunal shall, for the purposes of any enquiry into an election petition have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means and so far and may be in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1977.

(2) The provisions of Evidence Act, 1977, shall, subject to the provisions of these rules, be deemed to apply to every such inquiry.

(6) **Appearance by Pleader:** Any appearance, application or act before the Election Tribunal may be made or done by the Party in person or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, if the Election Tribunal so directs, be made by the party in person.

(7) **Expenses of witnesses:** The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Election Tribunal to such person and shall, unless the Election Tribunal otherwise, directs, be deemed to be part of the costs.

(8) **Costs and Pleader's fee etc. :** (1) The costs shall be in the discretion of the Election Tribunal and the Election Tribunal shall have full powers to determine by and to whom and to what extent such costs are to be paid and to include in its report all necessary recommendations for the purposes aforesaid. The Election Tribunal may allow interest on cost at a rate not exceeding six percent per annum and such interest shall be added to the costs.

(2) The fees payable by a party for his adversary's pleader shall be such as the Election Tribunal may allow.

(9) **Withdrawal of petition :-** (1) An Election petition may be withdrawn by the leave of the President:

Provided that if the petition has been referred to the Election Tribunal, it can be withdrawn only with the leave of the said Tribunal.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

(3) When an application for withdrawal is made to the Election Tribunal notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Government Gazette.

(4) No application for withdrawal shall be granted if, in the opinion Of the President of the Election Tribunal, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If the application is granted :

(a) the petitioner shall, where the application has been made to the Election Tribunal be ordered to pay the costs of the respondent there to fore incurred or such portion thereof as the Election Tribunal may think fit.

(b) notice of the withdrawal shall be published in the Government Gazette by the President or by the Election Tribunal, as the case may be; and

(c) any person who might himself have been a petitioner may, within 14 days of such publication, apply to be substituted as petitioner in place of the party withdrawing and upon compliance with the conditions of Rule 2 of the Rules as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Election Tribunal may think fit.

(10) **Abatement or substitution on death of respondent:-** If before Election Tribunal shall cause notice of such event to be published in the Government Gazette and thereupon any person who might have been a petitioner may, within 14 days of such publication, apply to be substituted for such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Election Tribunal may think fit.

(11) **Election when to be void :-** (1) If in the opinion of the Election Tribunal the election of the returned candidate has been vitiated by a corrupt practice of the kind specified in Rule 65 of the Jammu and Kashmir Constituent Assembly Election (Part II) Rules 2008, the Election Tribunal may recommend to the President of the J & K Constituent Assembly, in the report that the election declared void.

(2) The report of the Election Tribunal shall include a recommendation as to the total amount of costs which are payable and the persons by and to whom such costs should be paid as well as a recommendation whether any costs should be paid out of the sum deposited as security under rule 2 and whether the said sum should be returned.

(12) **Orders of the President on receipt of report:-** On receipt of the report of the Election Tribunal, the President shall issue orders in accordance therewith and the orders so issued shall be final and shall not be questioned in any court.

(13) **Execution of Orders as to costs :-** Any order made by the President under rule 12 as to costs may, except where such costs are wholly payable out of the sum deposited as security under rule 2, be produced before any civil court within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or cause business, and such Court shall execute such order or cause it to be executed in the same manner and by the same procedure, as if it were a decree for the payment of money made by itself in a suit.

(14) The report of the Election Tribunal shall be in writing, shall be signed by the person or persons constituting the Election Tribunal and shall be published in the Government Gazette.

APPENDIX C

Annexure to the Resolution moved by Kh. G. M. Sadiq on the 31st of October, 1951.

J & K CONSTITUENT ASSEMBLY RULES OF BUSINESS AND PROCEDURE (PROVISIONAL)

CHAPTER 1

1. **Short title and Commencement :-** These rules shall be called the Constituent Assembly Rules.

They shall come into force at once.

2. **Definition :-** In these rules, unless the context otherwise requires :-

- (a) "Assembly" means the Constituent Assembly of Jammu and Kashmir;
- (b) "Chairman" means the person who for the time being presides over the Assembly or any of its Committees;
- (c) "Meeting" means a meeting of the Constituent Assembly which consists of one or more sittings;
- (d) "Member" means a member of the Assembly;
- (e) "Motion" means a proposal made by a member for the consideration of the Constituent Assembly relating to any matter which may be considered by the Constituent Assembly and includes a resolution;
- (f) "President" means the President elected by the Assembly;
- (g) "Secretary" means the Secretary of the Constituent Assembly and includes any person for the time being performing the duties of the Secretary;
- (h) "Rules" means Jammu and Kashmir Constituent Assembly Rules of Business and Procedure (provisional).

CHAPTER II

3. Admission of members:- No member shall take his seat in the Assembly until he has signed his name in the register kept for the purpose at a meeting of the Assembly or, if the Assembly is not in session, in the presence of the President.

4. Resignation:-

(1) A member may resign his office by writing under his hand addressed to the President.

(2) On the acceptance of the resignation by the President his seat shall become vacant.

5. **Casual Vacancies:-** (1) When a vacancy occurs by reason of death, resignation or otherwise in the office of a member of the Assembly the President shall notify the vacancy in the Government Gazette and call upon the constituency concerned to elect a person for the purpose of filling the vacancy in accordance with Jammu and Kashmir Constituent Assembly Election Rules (Parts I and II), 2008.

CHAPTER III

The President

6. **Election:-**

(1) The President of the Assembly shall be elected by the Assembly from among its members.

(2) The President may resign office by writing under his hand addressed to the Secretary for communication to the Assembly.

7. **Functions of the President:-**

- (1) The deliberations of the Assembly shall be presided over by the President when he is present.
- (2) The President shall be the guardian of the privileges of Assembly, its spokesman and representative and its highest execution authority.

8. **Delegation of President's function:-** The President may, subject to such conditions as he may prescribe, delegate to the Deputy President or the Chairman such of his powers and duties as he may think fit.

CHAPTER IV

Business of the Assembly

9. **Business :-** (1) The business of the Assembly means business conducted:
- (i) in the Assembly itself;
 - (ii) in such other committees or sub-committees as may be set up by the Assembly,

2. The conduct of the business of the Assembly and the procedure thereof shall be regulated by the rules, and the standing orders and the resolutions of the Assembly and by the rulings given from time to time by the President.

10. **Dates of meetings:-** (1) The Assembly shall sit on such dates as the President, having regard to the State of Business of the Assembly, may from time to time direct:

Provided that the President shall not adjourn the session for more than three days at a time except with the consent of the Assembly.

Provided further that the Chairman may adjourn the session to the next working day.

(2) After the termination of the first session of the Assembly, Sessions of the Assembly may be called by the President on a date to be appointed by him and notice of date and time of the session shall be issued by the Secretary to each member of the Assembly.

11. **Time of meetings:-** Meeting of the Assembly shall commence at 10.30 a.m. unless otherwise directed by the President.

12. **Quorum:-** (1) The presence of at least 35 members shall be necessary to constitute a quorum.

(2) If the President on a count being demanded by a member at any time during a meeting , ascertains that the number of members present is less than thirty five he shall adjourn the Assembly for not more than fifteen minutes, and if on a fresh count being taken after that period it is found that there is still no quorum he shall adjourn the Assembly till the next day on which it ordinarily sits.

13. **Arrangement of business:-**

(1) A list of business for the day shall be prepared by the Secretary and a copy thereof shall be supplied for the use of every member before the commencement of the business of the day. The business thus prepared shall be called the "Order of the Day".

Save as otherwise provided in these rules, no business not included in the Orders of the Day, shall be transacted at any meeting without the leave of the President.

(2) The business for the day shall be transacted in the orders in which it appears in the orders of the Day unless otherwise directed by the President.

(3) No business requiring notice shall without the leave of the President be set down for a day earlier than the day on which the period of notice prescribed for such business expires.

14. **Notices:-** (1) A notice or other paper shall be deemed to have been made available for the use of each member if a copy has :

(a) been delivered by hand, receipt being acknowledged in the Secretary's delivery book either by the member himself or by some person on his behalf; or

(b) been posted to the address registered by him in the Assembly Office; or

(c) been placed during the session in the seat allotted to him in the Assembly Hall by the President.

(2) Each member shall notify to the Secretary an address in Jammu and Srinagar to which notices may be sent to him during the session of the Assembly in Jammu and Srinagar respectively.

(3) Every notice required to be given by a member under these rules or the standing orders shall be given in writing and addressed to the Secretary of the Assembly. It may be sent by post to the Secretary or may be delivered by hand at the notice office of the Assembly before 4 p.m. on any working day. If it is sent by post it shall be treated as delivered on the day on which it is actually received by the Secretary or in his office. Provided that if it is received by post or delivered by hand on a public holiday or at a time later than 4 p.m. it shall be treated as delivered on the date on which the office is next open.

Note :- Where it is provided that so many clear days notice must be given, both the days on which the notice is delivered or treated as delivered, and the day on which the matter to which the notice relates is put up for consideration by the Assembly, shall be excluded from calculation of such requisite number of the clear days.

CHAPTER V

15. **Seating of members:-** The members shall sit in such order as the President may appoint.

16. **Members to rise when speaking :-** A member desiring to make any observation on any matter before the Assembly or to raise a point of order shall speak from his place, shall rise when he speaks, and shall address the President, if, while a member is speaking, any member desires to make an explanation, or to ask an explanation from the member speaking he shall rise in his place, and if, called upon by the President shall make or ask the explanation; if not called upon, he shall resume his seat. At any time, if the President rises, or if a member rises to a point of order, any member speaking shall resume his seat.

17. **Explanation:-** When for the purpose of explanation during discussion or for an other sufficient reason, any member has an accession to ask a question of another member on any matter then under the consideration of Assembly, he shall ask the question through the President.

18. **Limitations on debates:-** (1) The matter of every speech shall be strictly relevant to the matter before the Constituent Assembly.

(2) A member while speaking shall not :-

- (a) reflect upon the conduct of any Court of Justice in the exercise of its judicial functions;
- (b) refer to any matter of fact on which a judicial decision is pending;
- (c) utter defamatory words;

- (d) make use of offensive expression;
- (e) make a personal charge against another member;
- (f) use his right of speech for the purpose of willfully and persistently obstructing the business of the Constituent Assembly.

19. **Decision on a point of order:-** (1) The President shall decide all points of order which may arise and his decision shall be final.

(2) Any member may, at any time, submit a point of order for the decision of the President and in doing so shall confine himself to a statement of the point.

(3) No discussion on any point of order shall be allowed except with the leave of the President.

20. **Irrelevance or repetition:-** The President, after having called the attention of the Assembly to the conduct of a member, who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.

21. **Power to order the withdrawal of member:-** (1) The President shall preserve order in the Assembly and shall have all powers necessary for the purpose of enforcing his decisions on all matters relating to the preservation of order therein including the power to call upon the marshal or any public servant to carry out such directions as he may give for the enforcement of such decisions.

(2) He may direct any member whose conduct is grossly disorderly to withdraw immediately from the Assembly and any member so ordered to withdraw shall do so forthwith, and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same session, the President may direct the member to absent himself from the meetings of the Assembly for such period as he may fix, and the member so directed shall absent himself accordingly.

(3) The President may in case of grave disorder in the Assembly suspend any sitting for a time to be named by him.

22. **Method of Voting:-** Any matter requiring the decision of the Assembly shall be brought forward by means of a question put by the President on a motion proposed by a member.

Votes may be taken by voices or by show of hands or by division and shall be taken by division if any member so desires; provided that if the President is of opinion that the request for division is frivolous, he may disallow it.

The President shall determine the method of taking votes by division.

The result of the votes shall be announced by the President. The announcement by the President of the result of voting by division shall not be challenged.

23. **Decision of questions:-** All the question at any sitting of the Assembly shall be determined by a majority of votes of the members present other than the President; provided that in the case of an equality of votes, the President shall have and exercise a casting vote.

24. **Admission to the Assembly Chamber:-** The President shall regulate the admission of persons other than members to the Assembly Chamber and its galleries during the meetings of the Assembly and may ask them to leave the Chamber whenever he thinks fit.

M O T I O N

25. **Notice of Motions:-** A member who wishes to move a motion (other than a motion for which a period is specially prescribed) shall give, in the case of substantive motion, at least three clear days and in the case of any amendment at least one clear day's notice of his intention to the Secretary; provided that the following motions may be moved without notice with the permission of the President:-

(1) Motion for the adjournment of a meeting of the Assembly;

- (2) Motion for the withdrawal of strangers;
- (3) Motion for electing members for the Standing Committees;
- (4) Motion for withdrawal of resolution or amendment thereto;
- (5) Motion of congratulation or condolence;
- (6) Motion for postponement of any business;
- (7) Motion for closure of a debate;

Provided further that the President may, in his discretion allow any other motion to be moved at any time at shorter notice or without notice.

26. **Bar to discussion otherwise than on a resolution:-** Save as otherwise expressly provided no discussion of a matter of general public concern shall take place otherwise than on a resolution moved in accordance with the rules governing the moving of resolutions except with the consent of the President.

27. **Repetition of motion:-** (1) A motion must not, except with the permission of the President, raise a question substantially identical with one on which the Assembly has given a decision in the same session;

(2) A motion must not anticipate a matter already appointed for consideration by the Constituent Assembly. In determining whether a motion is out of order on the ground of anticipation, the President must have regard to the probability of the matter anticipated being brought before the Constituent Assembly within a reasonable time.

(3) A motion once moved shall not be withdrawn without the leave of the President.

(4) No discussion shall be permitted on a request for leave to withdraw a motion, except with the permission of the President.

28. **Admissibility of motions:-** Except as otherwise provided for in the rules; the President shall decide on the admissibility of a motion and his decision shall be final.

29. **Identical motion:-** Where substantially identical motions stand in the name of two or more members, the President shall decide whose motion shall be moved, and the other motion thereupon be deemed to be withdrawn.

30. **Order of speeches and right of reply:-** (1) Every Motion which has been moved shall be seconded; otherwise, it shall not be discussed nor shall any question be called upon it.

(2) After a motion has been seconded; other members may speak on the motion in the order in which the President may call upon them. If any member who is so called upon does not speak, he shall not be entitled, except by the permission of the President, to speak on the motion at any later stage of the debate.

(3) Except in the exercise of a right of reply or as otherwise provided by the rules or the standing orders, no member shall speak more than once on any motion, except with the permission of the President for the purpose of making personal explanation but in that case no debatable matter may be brought forward.

(4) A member who has moved a motion may speak again by way of reply :

Provided that nothing in this rule shall be deemed to give any right of reply to the mover of an amendment.

(5) The President may, if he thinks fit, prescribe a time limit for speeches in case where it is not expressly provided for under these rules.

31. **Rules as to amendments:-** (1) An amendment must be relevant to and within the scope of the motion to which it is proposed.

(2) An amendment may not be moved which has merely the effect of a negative vote.

(3) An amendment on a question must not be inconsistent with a previous decision on the same question given at the same stage of any motion.

(4) The President may, at any stage, disallow an amendment, which, in his opinion, does not comply with the rules or is frivolous.

32. **Moving of amendments:-** (1) When an amendment is moved or when two or more amendments are moved, the President shall before taking the sense of the House thereon, state or read to the Assembly the terms of the original motion and of the amendment or amendments proposed.

(2) It shall be within the discretion of the President to decide the order in which he shall put to the vote the original motion or the amendments.

33. **Closure:-** (1) At any time after a motion has been moved any member may move, "That the question be now put" and unless it appears to the President that the motion is an abuse of the rules or the standing orders, or an infringement of this right of reasonable debate, the President shall put the question, "That the question be now put".

(2) Where a motion is made under sub-rule (1) the motion, and if it is carried, the question, as the case may be, shall be put without amendment or debate:

Provided that the President may allow any member any right of reply which he may have under these rules or under the standing orders.

34. **Adjournment of meeting, business or debate:-** A motion that any sitting or business be adjourned or postponed or that the Assembly do pass to the business next in order in the orders of the day, may, if the President consents, be moved at any time and without previous notice as a distinct question but not so as interrupt a speech. If the motion is carried, the meeting or business shall be adjourned or postponed accordingly; or if the motion carried by the Assembly do pass to the business next in order in the orders of the day, the business then under discussion shall be considered to be disposed of. On such motion the question put shall only be "That the meeting be now adjourned" or "That the business be postponed" or "That the Assembly do now pass to the business next in order in the list of business" as the case may be.

35. **President's power to adjourn:-** The President may adjourn any sitting or business to any future day and hour or to any part of the same day without discussion or vote.

R E S O L U T I O N S

36. **Notice of Resolutions :-** A member who proposes to move a resolution shall give to the Secretary notice in writing of his intention, shall submit together with the notice a copy of such resolution; provided that a member shall not give notice of more than two resolution per day.

37. **Form and content of resolutions: -** No resolution shall be admitted unless it complies with the following conditions, namely:-

- (1) It shall relate to matter of general public interest,
- (2) It shall be in the form of a specific recommendation addressed to the Assembly,
- (3) It shall be clearly and precisely expressed and shall raise substantially a definite issue,
- (4) It shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall refer to the conduct or character of persons except in their official or public capacity,
- (5) It shall not relate to any matter which is under adjudication by a Court of Law.

38. **Admissibility of resolution :-** The President shall decide on the admissibility of a resolution. If a resolution does not in his opinion comply with the rules, he may disallow it or may, give the member an opportunity to amend the form of a resolution to bring it into conformity with the rules. If the defect is of a purely verbal or formal character the President may himself amend the resolution and admit it. The ruling to the President as to whether any resolution complies with the rules or not shall be final.

39. **Intimation to members:-** The Secretary shall give intimation to the member that the resolution has been admitted or disallowed or allowed as amended by the President as the case may be.

40. **Priority of resolution on the list of business:-** The resolution which have not been disallowed by the President shall be entered in separate lists of each day and the priority of resolutions for purposes of discussion shall be determined by the President in his discretion or by ballot if so directed by him.

41. **Motion and withdrawal of resolution:-** (1) If any member in whose name a resolution stands on the list of business when called on is absent the resolution shall be deemed to have been withdrawn, unless he authorizes

with the previous permission of the President any other member to move it on his behalf.

(2) When a member moves a resolution he shall commence his speech by formal motion in the terms appearing on the list of business.

42. **Duration of speeches:-** The President may in his discretion prescribe a time limit for speeches on the resolution.

43. **Limits of discussion:-** The discussion of the resolution shall be strictly limited to the subject of a resolution.

44. **Seconding of resolution:-** As soon as resolution has been moved, it shall be seconded by another member, and no discussion shall be permitted on a resolution which is not so seconded.

45. **Amendments and their notice:-** After a resolution has been moved, any member may subject to the rules relating to resolutions, move an amendment to the resolution.

46. **Notice of amendments :-** (1) Notice of such amendment has not been given on clear day before the day on which the resolution is moved, any member may object to the moving of the amendment, and such objection shall prevail, unless the President, in the exercise of his power to suspend this rule allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause a copy of every amendment to be made available for the use of every member, otherwise the next of the amendment shall be read by the President.

47. **Withdrawal of resolution:-** (1) A member who has moved resolution or an amendment to a resolution shall not withdraw the same except by leave of the Assembly.

(2) No discussion shall be permitted on a request for leave to withdraw, except with the permission of the President.

48. **Order of amendments:-** (1) It shall be in the discretion of the President to put first to the vote either the original motion or any amendment which may have been brought forward.

(2) When a resolution involving several points has been discussed it shall be in the discretion of the President to divide the resolution and to put each or any point separately to the vote as he may think fit.

49. **Resolution not discussed:-** If a resolution which has been admitted is not discussed during the session, it shall be deemed to have been withdrawn.

50. **Bar to moving similar resolutions:-** When a resolution has been disallowed under the rules of standing orders or has been withdrawn with the leave of the Assembly, no resolution raising substantially the same question shall be moved.

51. **Submission of copies of passed resolution to the Cabinet:-** The Secretary shall forward to the Council of Ministers a copy of every resolution which has been passed by the Assembly and the Council of Ministers shall intimate to the Assembly the action taken thereon.

52. **Report of proceedings:-** The Secretary shall cause to be prepared a full report of the proceedings of the Assembly at each of its meetings, and shall, as soon as practicable, publish it in such form and manner as the President may direct.

A P P E N D I X D

Existing Organization of the Constituent Assembly Secretariat

Post	Scale of Pay
Gazetted	
1 Secretary	400-25-600
1 Joint Secretary	400-25-600
1 Under Secretary	200-20-300
1 Marshal	150-10-250
1 Personal Assistant to the Hon'ble President of the Assembly	200-20-300
1 Watch and Ward Officer	150-10-250
Non-Gazetted	
2 Assistants for the Constitution Branch	15-10-250
1 Chief Reporter	150-10-250
3 English Reporter	150-10-250
3 Vernacular Reporters	90-6-150
3 Translators	90-6-150
1 Head Clerk	90-6-150
1 Librarian-cum-Head Clerk	90-6-150
1 Accountant	90-6-150
2 Stenographers	90-6-150
1 Cashier	75-5-100
1 Assistant Accountant	75-5-100 (For election work for a period of six months only).

7	Senior Clerks	50-5-100
3	Junior Clerks	40-4-80

Inferior Staff

1	Jamadar	161/3-19
2	Watch and Wardmen	121/3-15
10	Peons (Including Farash)	121/3-15

APPENDICES

OTHER GRANTS

Traveling Allowance

(i)	Gazetted	1,500
(ii)	Non-Gazetted	4,000

Contingencies

(i)	Postage and Telegram	500
(ii)	Other Contingencies	5,000-(Non-recurring) 2,500

Other Allowances and Honorarium

(i)	Daily Allowance	1,250
(ii)	Temporary Move Allowance	900
(iii)	Ration Allowance	800

Daily Allowance and Traveling Allowance to the members of the Constituent Assembly including pay and allowances of the President	60,000
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Stationery and Printing

(i)	Stationery	3,000
(ii)	Printing including cost of paper	5,000

JAMMU AND KASHMIR

CONSTITUENT ASSEMBLY

(Thursday, the 1st November, 1951)

The Constituent Assembly met in the Constituent Assembly Chamber, Srinagar, at eleven of the clock with Temporary Chairman (Maulana Mohammad Saeed) in the Chair.

Good-will Messages

Hon'ble Maulana Mohammad Saeed (Temporary Chairman):- Before commencing today's business I would request the Secretary to read out only the most important goodwill messages before the House. He should read out the list of the rest.

Note:- The Secretary read out the messages from His Excellency Jairamdas Daulat Ram, Governor of Assam and Mr. Hari Krishan Mahtab. The list of other messages was read out to the House.

Message of goodwill from His Excellency Jairamdas Daulat Ram, Governor of Assam for J&K Constituent Assembly: Heartiest Congratulations for successful inauguration of Constituent Assembly. May all people of Kashmir grow and prosper in peace and plenty under the leadership of Sheikh Mohammad Abdullah.

Message from Shree Hari Krishan Mahtab of Calcutta: it is a historic day for Kashmir and India that the Constituent Assembly of Kashmir elected on adult franchise meets to decide the political and Constitutional fate of Kashmiri people. The courage and fortitude which people of Kashmir have shown under your leadership has already become a treasure in Indian history and the same will doubtlessly enable you to achieve your ultimate object. May the Assembly be guided by pure judgment and selfless devotion to the cause of common people of Kashmir.

Further messages of good wishes for the J&K Constituent Assembly have been received from the following:-

1. Mr. Subbarayan, M.P.
2. Mr. Dinanath Jalali, Kashmir Trade Agents, Pathankot.
3. Mr. Maseed Ahmad Fazil, Devband.
4. Mr. Jatindra Prashad, Junagadh.
5. Dr. Gwasha Lal, Simla.
6. Mr. Shamboo Nath, Rampora State.
7. Miss Mirdula Sarabhai.
8. Boys and Staff of the D.A.V. High School Srinagar.
9. Mr. Ahad Shah, President Indusces Union, Srinagar.
10. Mr. Bansi Lal Suri, Jammu.
11. President, Hindu Shahayak Sabha, Srinagar.
12. International Sports, Jammu.
13. Mr. Ghulam Rasool Bacha, Bandipur.
14. Pandit Sham Lal Bhat, Hakim, Srinagar.
15. Mr. G. M. Farooq, Hazratbal.
16. President, Driver's Association, Sopore.
17. Mr. Mohammad Ramzan, Bijbehara.
18. Manager, Tonga Drivers Association, Anantnag.
19. Malik Abdul Gani, Sopore.
20. District Vice President, National Conference, Anantnag.
21. Tehsil Secretary, National Conference, Anantnag.
22. Halqa President, National Conference, Anantnag.
23. Mr. Ghulam Mustafa Tak, Bejbihara.
24. Secretary, Arya Samaj, Hazuribagh and Wazirbagh, Srinagar.
25. Mr. Behari Lal Batra, Secretary, Wanibugh Welfare Association, Sgr.
26. President, Rajbagh Workers Union, Srinagar.
27. President, Food Control Workers Union, Srinagar.
28. Secretary, District National Conference, Baramulla, Sopore.

29. President, Masons Association, Srinagar
30. People of Handwara through Mr. Abdul Wahab.
31. Mr. Abdul Ahad Bhat, Zaildar, Sopore.
32. Mr. Asad Ullah Beg, Anantnag.
33. Secretary, Central Govt. Market Stall, Holders Association, Sgr.
34. President, Matka Industry Workers Union, Srinagar.
35. President, Brahman Yuvak Mandal, Srinagar.

Election of the Permanent President

Hon'ble Maulana Mohammad Saeed (Temporary Chairman) :- Now, the next item on the agenda relates to the election of the Permanent President of the House. Yesterday, after the adoption of the rules, it was announced that the nominations for the office of the President should reach by 4 p. m.

I have two proposals with me by now and both of them are in order. One has been proposed by Mr. Beg and seconded by Mr. Bakshi and the other has been proposed by Mr. Ram Chand Khajuria and seconded by Mr. Mahant Ram Sharma. Both these proposals relate to one and the same candidate, i.e., Mr. G. M. Sadiq. As no other name has been proposed. I declare Mr. G. M. Sadiq as duly elected to the office of the permanent President of the House.

(The House resounded with cheers)

Note:- Hon'ble Mr. G. M. Sadiq occupied the Chair.

(Prolonged Cheers)

***The Hon'ble Prime Minister :** Sir, I congratulate you from the depth of my heart, upon the confidence reposed in you by the House and the honour which it has bestowed in unanimously electing you as its President (Cheers). The part you played in the freedom Movement needs no comment. In the year 1931, when the freedom Movement was launched here, you were studying at Aligarh. When I started this movement, I remember fully well, I counted upon you support were also studying in various colleges. When as a result of our first struggle we succeeded in securing for the people the first installment of constitutional reforms granting the right to send representatives to the State Assembly by election that choice of the people even at that early stage fell on you and you were elected as a member of our first Assembly, The mastery that you possess over political affairs is a natural instinct and a divine gift with you. Not only were you in touch with the changing phases of the politics of your own land but you were also fully acquainted with the different trends of the world politics. That is why the people have placed confidence in you at this time. The honesty and ability with which you discharged your duties, is known to us all. (Cheers). These facts speak for themselves. Thereafter our Movement passed through a transitional period. We had frequently to face severe storms but the ability with which you steered the ship of the nation through each such storm is fresh in every one's mind. It is a strange coincidence that whenever our boat took a definite direction; whenever we left our old ruts to step into a new order; and whenever such a situation arose during these past twenty years, the people, quite in keeping with divine will, bestowed upon you the honour of giving them a right lead at each turning point (Cheers). From 1931 to 1938 the people's Movement passed through an important stage. The people and their leaders after deep consideration came to the conclusion that they had reached a stage when the Movement should be broad based and must have a common platform in place of different forces in which the Movement was running till then. To take

such a decision the nation called a conference of 200 representatives at Srinagar. I regard this occasion as another turning point of our history, i.e., we had to take a path different from the one we were traversing from 1931 to 1938. After eight year's deliberations the people were faced with the problem as to whether or not it was necessary to chalk out a common programme for leading the country towards freedom. Here too the people conferred upon you the honour and the memory of efficient and courageous lead given by you on that occasion is still green.

With the Division of India, the Indian States were confronted with a new situation, i.e., whether they should accede to India or Pakistan or maintain relations with both the Dominions. This was such a complicated problem that any wrong step taken would have endangered the whole nation. The situation had become complex. Soon after the partition of India, we were deeply perturbed by terrible blood-shed which was going on our borders. We had hardly come out of prisons and were considering upon the ways and means to resolve the evoked problem; it is strange that even at that critical juncture the eyes of the people fell on you. You were entrusted with the mission of proceeding to Lahore and placing the view point of the Kashmir people before the leaders of Pakistan. You went there accordingly and represented our country. The ability and tact with which you advocated our view point before the Pakistan Authorities is fresh in our minds.

New God has entrusted you with another important task. The complications which arose in our country after 1947 are known to everyone. Now again the people have taken a definite decision and convened a Constituent Assembly. In 1931, we had raised the voice that the destiny of the country should lie in the hands of the people and they should frame their constitution in accordance with their wishes. Now when after a protracted struggle our hopes have been fulfilled, the elected representatives of the country after placing their implicit confidence in you have entrusted you with the Presidentship of this Assembly so as to derive full benefit from your leadership. My object in placing all these facts before you was that in reality a hidden power works in the back

ground in this word which we call as God. Ram or Waheguru and we are merely puppet in the hands of Nature. Nature assigns a specific task to each individual in this world and gets it done. At every critical stage that arose since the year 1931, the hand of Nature was always at work for the solution of each such tangle and the choice of the people fell on you. I realize that Nature had always been guiding us in all our undertakings and shall continue to do so. It is in fact God who has entrusted you with this important task. I am confident that no one can spoil the work of God. Just as in the past the helping hand of the Almighty has crowned your efforts with success in guiding the people on the right path, I am sure, you will meet with similar success in the present enterprise. Believe me, Sir, that I was thrilled by this decision of the House and I realize that Nature persistently works and uses the human beings as mere instruments. I believe that the future of our country will be glorious and the dark clouds overhanging our political firmament will soon vanish into thin air. My prayers shall always be with you. I assure you that this House will always extend complete obedience to your orders. With these few words I once again congratulate on your election.

***Hon'ble Girdhari Lal Dogra (Finance Minister):-** Sir, Quaid-i-Azam has hinted at your political activities, and explained to what extent you have served the people and the country in the Political field. Because of these services and of the qualities which as a pleader and a member of the Bar, I know you possess, I congratulate you and the House for this best selection. It is true that this Chair carries with it huge responsibilities, it is equally true that you the custodian of the honour and privileges of every members of this House. This too is right that there are such members in the House as could discharge the duties of the President; but I would humbly say, that if the order of precedence is taken into consideration you will top the list. This is also true that you high ideals are well known not only in this State but all over India. You are a man of progressive ideas. May be, that you election rankles in the hearts of some reactionaries, but it is an indication of the type of Constitution we are going to frame. With these words I once more congratulate you and the House.

***Sardar Harbans Singh Azad:-** Sir, when I congratulate you, my mind goes hundred and four years back to the **Treaty of Amritsar** which resulted in the sale of this country for Seventy Five Lacs of Rupees. According to my estimate the price per head works to Rs.4-6-7. In my opinion the purchasers of the country might perhaps, have held their conference in this very hall and today I feel extremely happy that we have come to this very place to receive back our property. I have an old association with you. In 1941, I was Vice President of All Kashmir Students Federation . Then in the capacity of its President I had close association with you. You guided the students movement in this country. When in 1942, the All India Students Federation met at Patna, your election to its Presidentship was a matter of pride for me. That too was a turning point in All India Students Movement. Because of this honour the people of Kashmir could hold their heads high. I guess that the souls of Major Federic and Montgomery, who had ratified the Treaty of Amritsar would be writhing in agony in their graves now when as a result of peoples continuous struggle the Treaty of Amritsar is being abrogated. Sir, my honest opinion is that the fate of Kashmir can neither be decided by U.N.O. nor by India and nor by Pakistan. It cannot be decided under Chairmanship of either Zaffarullah or Shree B. N. Rao, Mr. Malik of Russia, Mr. Warrn Austen, or Jacob of Britain. The fate of Kashmir will be decided under your Presidentship. I can take pride in the fact that the Kashmir problem will be decided by Kashmiris themselves. In view of your great qualities, I hope that this country will march forward. In 1939, when the Muslim Conference was converted into National Conference, I remember the heading of Tribune "Remarkable Change in Kashmir Politics". And it is correct that our political outlook changed completely and we found ourselves on a turning point. I hope that at this time too our country will march forward. I would humbly say that the coming generations will recollect with pride, that it was under your Presidentship that important decisions involving the fate of Kashmir were taken and that under the leadership of Sher-i-Kashmir the country was liberated. I wish we may set up a structure wherein the people may live in peace and contentment, and the coming generation may remember that their forefathers

had erected a splendid edifice in which the people of this State live in peace and prosperity. With these words I once more offer my congratulations to you.

***Mr. Moti Ram Baigra :-** Sir, I stand to offer my congratulations. I do not possess the wealth of language to praise your qualities the same terms in which the Sher-i-Kashmir and other colleagues have eulogized you. To see the great work done by Sher-i-Kashmir and other young men who were in the Organisation. A man like me also joined the freedom movement. A pretty long time has elapsed during which our country had to go through many ups and downs; Kashmir is occupied with such a movement in which lies the mastery of the betterment of the poor of this country. And today when we sit in this Assembly to frame the Constitution for this country. This House has unanimously elected you as its President. I hope that this House will frame such a Constitution under you Presidentship as will gratify not only India but the whole world. The picture that we see of a newly built Kashmir makes me say, that this constitution will be followed by other countries also. I have to say

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Only this much and I once more offer my congratulation. I hope that this House will evolve such a constitution as will provide a chance of progress to every individual.

Sardar Kulbir Singh: Sir, Quaid-i Azam and other members have already spoken of high qualities. I also offer my heartfelt congratulations. The people of Kashmir under the leadership of Quaid-i-Azam and through their organization i.e. the National Conference have fought against poverty, hate and servitude. This movement has seen many stages, and during this time whenever we come to a turning point or a crossroad you guided the people on the right path. We shall regularly carry on our past fight. The world has her eyes fixed on Kashmir. Not only our neighboring countries, but all the world powers are keenly watching us. I feel that by the help of your good qualities mentioned by Quaid-i-Azam and under your guidance we shall be able to march onwards in our struggle against hate and poverty. I also feel that the confidence and ideas with which the House has elected you will serve as eye opener to the world. With these words I once more congratulate you.

Mr. Abdul Gani Goni: Sir, I congratulate you on your election as a President and I also congratulate the Hon'ble members on this splendid and glorious election. The whole country has its eyes on your personality and guidance. With this are bound the hopes of forty lakhs of people. On the one hand if our hopes are dependent upon you on the other this House will add a glorious historical chapter to India politics and the blessings of Mahatma Gandhi showered on Kashmir five years before, will be realized through our efforts and our mission will be satisfactory accomplished. With these brief words, I congratulate you.

Mr. Kushak Bakula of Ladakh:- As I do not now English or Urdu I am constrained to speak in my own mother tongue. Today the twenty-year's struggle launched by Quaid-i- Azam Shri-i- Kashmir has culminated in this busy Assembly. This House will evolve the solution of the problems not solved up to now. I congratulate you (Mr. Sadiq) from the depth of my heart on your election as the first President of this grand House. I trust that under your Presidentship, this

House, will come out triumphant in building a glorious future of the people; and a backward place like Ladakhi, whereof I am a first elected representative will grow in prosperity side by side with other parts of the State. The people of Ladakh have different problems. They are different from other communities of the State in respect of race, language and culture. Therefore, I hope that you will frame such a constitution for that far-off place, which will enable the people to administer their internal matters themselves. I pray for the success of this House in solving the problems of the people to whom we are answerable.

Syed Ibrahim Shah: Mr. President, as every preacher and district president of Kargil is a follower of National Conference. I do not at all know English. I can speak little in Urdu. At I have for ten years studied Arabic and Persian in Iraq. I am well acquainted with both these languages. Therefore, I wish to speak in Persian. We are not habituated at Kargil to hold such meetings, take out processions and deliver speeches. The people of Kargil are simple, poor and destitute. They are backward and far away from you. In the past they were subjected to different kinds of tyrannies and hardships. It is because of Sher-i-Kashmir that we are relieved of this oppression. We hope that in future too we will be safe from tyranny and will be encouraged. Especially, forced labour which is nowhere in vogue still existed in frontier regions. Now we shall soon be free from this also through the efforts of Sher-i-Kashmir. I hope that very soon this forced labour system will be replaced by contract system. I assure you that the people of Kargil have full confidence in Sher-i-Kashmir. In the end I congratulate Mr. President and Sher-i-Kashmir.

Maulana Mohd Saeed: Sir, the sentiments expressed in respect of your election by all right from Quaid-i-Azam onwards to the colleagues of Kargil and Ladakh have perplexed me as what to say and what not. The Quaid-i-Azam as a senior member has spoken at length in respect of your personality, capability, public service and the record of your stirring deeds. But this thing is somewhat difficult for me because, if I, being a junior member, relate while you are present, the record of deed and competence; I fear that my words may not border on flattery and sycophancy. It is difficult for me to do so. I would only say this much that a

better election for this high office was impossible. Not because of the difficulties that would hinder the election but because the duty for which you have been elected is of such a nature that you alone can perform it in the best manner. Under your guidance a new Assembly is born and the period of our new journey has set-in. The experience which you possess for tackling this most difficulty task is possessed by very few members in the House. The accomplishment of this task demands wide knowledge, experience and prudence. First of all you have to build the dignity of this House, which is very difficult to achieve. With this you have to maintain the liberty of speech of the House, keeping also in view the standard of restraint to be observed. This cannot be done as I have said before, without experience. The greatest and most important task that you have been charged with is to guard the privileges and rights of every member. They are little things to say, but are not so easy to carry out practically as to enable everyone to get elected. Keeping in view on the one hand your competence and capability and on the other your hard duties, I say, that this election of the President is the best one. I do not want to take much of your time. I would like to say that I welcome the ideas expressed by my predecessors. I extend my congratulations and resume my seat.

Hon'ble Mirza Mohd. Afzal Beg:- Allow me Mr. President to extend any heartiest congratulations to you on the unanimous election to this high of Supreme power in this Sovereign Constituent Assembly of this State. I shall not be far wrong in saying that among the 600 and old States which formed a separate part before the partition of India you are the first chosen representative of this character that has come into being through our efforts of 20 year's hard struggle led by our leader Sheikh Mohd. Abdullah, Sheri-I- Kashmir. You are, therefore, in possession of unique prestige and privileges of the Hon'ble members who have come from different parts of the country. Thrown as under and thrown apart by the history and other circumstances which have been facing us during the last four years we hail from all quarters in choosing you to this high office. It is a unique honour and I am sure as my predecessor in this House has said, that the Hon'ble members were perfectly right in doing so an no decision

could be wiser, saner or nobler than that they have made today in selecting you to this high office. My predecessor has said and nobody could put it better than leader of the House that you have been part and parcel of our great struggle. Your contributions to that struggle have been unique. Today nobody can be so proud as I am, when I look back to the history of twenty years when I had been a college student and belonged to a small group of workers which marched forward under your guidance and wise advice. In that great struggle you gave us good counsel to make our useful contributions to that movement which was led by our great leader Sher-i-Kashmir with whom you identified subsequently along with those who worked with you. I also remember, Sir that on the momentous day of history when we were going to present our first memorial to Maharaja Kashmir in that great month which was exactly the same in which we started this August Assembly yesterday, i.e. the month of October; 1931, when we presented our representation to the Maharaja. I remember in the meeting of representatives there was a slight difference, which gradually grew into a bigger difference. We demanded a representative Government. Even in that meeting of antiquity you had the wisdom to advise that we must rather fight for full responsible Government, and notwithstanding the fact that the advice which poured from Lahore suggesting that we may in the beginning go in for Representative Form of Government, I remember you took a stand and a very strong one that was the time to demand complete transfer of power to the people and you stood by it. I may say, although we had a setback at the initial stage, but later on it culminated into our great struggle. As our Hon'ble Moulana Mohammad Sayeed Masudi had said now, your tasks are hard and they do require your wisdom, your coolness of judgment and your penetrating outlook to guide the deliberations of this House. So far as the prestige of this House is concerned, I shall be voicing the feelings of everyone present here when I say, it will be guiding motive and guiding rule that in the dignity of the Chair lies the dignity of the House and reciprocally in the dignity of the House lies the dignity of the Chair. You are going to lead us in the framing of that great Constitution which will govern future generations of this country. I know many difficult problems are awaiting you and us and I can say

with full hope and confidence that every now and then if we feel any difficulty it will be your able judgment that will come to our rescue. I hope and pray that God in His infinite mercy may lead us to the goal for which we have been striving for the last twenty years. We owe honour and credit to all the Hon'ble members who form millions of people, for having imposed confidence in you. With that confidence in mind I may say a great credit will go to you for you will give a constitution a Law, for which the future generations will be proud. Before I close I may again extend my heartiest congratulations to you for the great post of honour and prestige that has conferred on you today.

Hon'ble President (Mr. G.M.Sadiq):- Hon'ble members, it is extremely difficult for me to control my feelings on this occasion as I could do on ordinary occasions. However, I shall try to do so. Before proceeding to acknowledge and reciprocate the good wishes and felicitations extended to me it is necessary for me to thank Moulana Mohammad Sayeed on my behalf and on behalf of this House for occupying the Chair temporarily up till now. The excellent manner in which he discharged his functions during this short period will be guidance to me. I am highly thankful to the House for the honour it has conferred on me. I know, I am not worthy of all that has been said today in this House about me, although I am overwhelmed with a sense of my own shortcomings, yet the one thing that propels me up is the thought of our twenty years freedom struggle that has put so much courage into our hearts that we do not lose our equilibrium even in the most difficult and critical time and we succeeded in all our undertakings. I am an humble servant of this organization and it animates me to prove myself worthy of all the good things that you have said about me. I know that very difficult and critical times are ahead of this country and especially this House. As has aptly been put by the leader of the House, Sher-i-Kashmir, "we have now reached a turning point" and this House is busy in devising plans to cross it safely. We and our organization have faced many turning points and I assure you that some of them were very dangerous but every time we determinedly resolved to surmount these difficulties for the sake of our people and for safeguarding their interests. I am confident that if we keep the traditions of our movement in view we shall

easily and sensibly solve the present difficulties as well. Yesterday, when under the leadership of Hon'ble Sheikh Mohd Abdullah, the Hon'ble members of the House were marching through the city in a procession, a man in tatters cried out from amongst the people, "Sheikh Sahib our honour lies in your hands" At that time I felt that the work we were charged with was not an ordinary one. The honour and dignity of this land and all that relates to the welfare of its inhabitants, lies in the hands of this House. This House can make or mar the destiny of this land. We shall have to prove through our efforts that all the desires and hops we have in this House are realized. This is not an ordinary task. The House will have to frame legislation and in addition there are many fundamental matters as involve the lot not only of the present inhabitants of this country but also of the coming generations. This is a life and death question for us. Today you have assembled here, not in a state when your hands are tied up but you are the members of a sovereign body, enjoying supreme authority; and you have the right to decide, all questions like an independent man. After full deliberations and keeping in view the interests of the country, the principles and desires cherished by us for the past twenty years for which hundreds of people laid down their lives, you have to solve all those issues and all the vital questions that will come before you in the best possible manner. As I have said before much has been said about me on this occasion and it is not possible for me to restrain my feelings. However, so far as I am concerned, I am your part and parcel, whom you have elected in, supervise the business of the House. It is my duty to see that the dignity and privileges of this House as a whole are kept up. I have also to see that liberty and privilege granted by law and the Constitution to the Hon'ble members of the House individually are protected and acted upon. From today, every member of this House, whether on the treasury benches or in the opposition is equal before me and I shall equally guard his rights and privileges (Cheers). I expect you cooperation in conducting the proceedings of this House rightly and with dignity. I also hope that we shall establish new conventions. As you know the world has its eyes on us. The way we work here will be witnessed not only by those here in the gallery but world's spacious gallery will keenly

watch it. We have to transact our business in a befitting and splendid manner. I reiterate that I am confident of your co-operation. With these words. I thank the Hon'ble members and especially Hon'ble Sher-i-Kashmir, for the speech made by him.

Appointment of a Committee on Rules of Procedure

Hon'ble President:- Hon'ble Mirza M.A. Beg will now move a resolution in regard to the appointment of a Committee on Rules of Procedure and other matters.

Hon'ble Mirza M.A. Beg:- Sir, with yours permission I move the following resolution: -

This Assembly resolves:

1. To appointment a committee consisting of Chairman and six other members named below to report on the following matters:
 - (a) Rules of Procedure of the Constituent Assembly;
 - (b) Powers of the President of the Assembly;
 - (c) Organization of the work of the Assembly including the appointment and powers of the office-bearers other than the president;
 - (d) Procedure for the declaration and filling of vacancies in the Assembly;
2. That the president shall be the chairman of the committee and the secretary, constituent Assembly, shall be the ex-officio Secretary of this committee.
3. That the committee may co-opt any person as an expert to render such assistance in its work as may be required.
4. That the committee shall submit its report to the President within three months from this date.

Name of the numbers of the Committee:

1.Hon'ble President	Chairman
2.Hon'ble Mirza Mohd AfzalBeg	Member
3. Hon'ble Mr. Girdhari Lal Dogra	,,
4. Hon'ble Mr.Ghulam Mohi-ul-Din Hamdani	,,
5. Hon'ble Mr. ChuniLal	,,
6. Hon'ble Mr.Assad- Ullah Mir	,,
7. Hon'ble Mr, Kulbir Singh	,,

Mr. President, as the House is aware we have been busy with the framing of rules for creating such machinery as may be necessary for the conduct of business in this house during the last two today's, there is another item of the same nature before the House, yesterday the House passed Rules to govern the Procedure of the business of the House and it was pointed out that the set of Rules will be provisional until this House framed Rules of Business of a permanent nature. Today, I purpose that a Committee may be set up to frame permanent Rules of Business and Procedure for the House. In regard to this I beg of Constituent Assembly to issue a directive that the committee shall frame Rules of Business and Procedure and also lay down rules regarding powers of the President as well as Rule regarding filling up; of vacancies that may occur in the Assembly. This committee should be presided over by a chairman not less than the president of the Assembly himself. That Committee is going to give us that set of Rules Sir according to which in future you will direct and regulate the business of the House. I would therefore; request the constituent Assembly to allow me to move that the Hon'ble President of the House should be the Chairman of that Committee. In regard to the rest of the personnel of the Committee it has been my attempt to draw on the legal talents of the House in proposing the names of members for that Committee. As the Committee will have to frame Rule of Business it will have to produce a document of law. Therefore, all the wisdom and experience of law will be required on the Committee. I have, therefore, proposed the names of some of the legal pundits of this House whose knowledge, wisdom and experience in Law will stand in good stead while framing these Rules, I have only added that the Secretary Constituent Assembly shall be ex officio, member of the Committee.

I have also sir, proposed that this Committee shall submit its report within a period of three months. As you are aware sir, there will be large number of technical questions on which expert assistance may be required. So I have proposed that the Committee may cooperate any person as an expert to render such assistance in its work as may be required.

With these words, Sir, I beg of the House to accept my Motion.

Hon'ble S.L,Saraf:- Sir, I second the resolution moved by Hon'ble Mr. Beg. It contains everything according to which this committee will frame Rules and also the powers of the President to carry on the Business of the Assembly. It lays down as to what should be the organization of the Assembly and how to fill up the casual vacancies of members. For all this the mover has proposed the appointment of a committee, which will submit its report within three months for the future guidance of this House. I hope that the proposal will be accepted.

Maulana Mohammad Sayeed : Sir, I propose two amendments to this proposal. The first amendment is that the words 'Vice President' be added in part C of item (1) where it is stated "including the appointment and powers of office bearers other than the President" The Vice President is also elected and the authority of his appointment vests in the House only. My second amendment is, that the Mover had remarked in his speech that he has tried to take only such members on this Committee as are equipped with legal experience. I ask whether the Hon'ble members whose name stands last in the list knows Law. Instead Mr. Mubarak Shah's name be substituted.

A voice :- No Hon'ble member has come forward to second this amendment

Maulana Mohammad Saeed:- Sir, such amendments need not be seconded. If the Mover wishes he can accept this without any discussion.

Hon'ble Mirza Mohammad Afzal Beg:- Sir, Maulana Saeed has raised a point of order that amendments need not to be seconded. I would submit that Maulana's amendment is not doubt a formal one, but an amendment is also a Motion and under the rules every motion must be seconded; therefore, I request that amendments should also be seconded.

Maulana Mohd Syeed:- Sir; an amendments is not a motion. That is the practice followed in all legislative bodies.

Hon'ble President:- the point of order raised by Maulana Sayeed is as to whether amendments need to be seconded or not; I think the amendments are of different kinds; Some amendments are merely formal which relate towards only

and do not effect the substance of the main resolution. Such an amendment requires not to be seconded it. The amendment proposed by Maulana Sahib substantially affects the substance of the resolution; rather it effects the very composition of the committee. I, therefore hold that such amendments as after a motion to the extent of changing its form, must be seconded.

Mr. D.P.Dhar:- Sir, there is no provision for the Vice President in the Rules. If Maulana Sahib's amendment is regarding to insertion of words "Vice President" is accepted. I may submit that we will be creating a precedent, which will not be consistent with the Rules.

Hon'ble Mirza Mohammad Afzal Beg:- Sir, the post of Vice President is not yet provided in the Rules

Hon'ble President:- So far as Mr.Beg's objection is concerned it is correct that the post of Voice President is not mentioned in the Rules.

Kh. Mubarak Shah:- Sir, I raise on a point of order. The resolution moved by Hon'ble M.A.Beg not being in order, I move this Assembly may pass on to the business next in order on the following grounds: -

As the Hon'ble member has said that the Secretary of this Assembly be included ex-officio member of this Committee: I object to the inclusion of the Secretary on the ground that the notice of this resolution, which has been given does not include the name of the Secretary. On perusal of Rule 13 it will be evident that no business not included in the order of the Day shall be discussed without the leave of the president. So I object to their inclusion of the Secretary and the amendment at this stage. Secondly I object to the resolution on this ground that Rule 27 passed yesterday relates on principle to this question. That question is substantially identical with one on which the Assembly has already given its decision. Thirdly I object to this resolution on the ground that the notice thereof has not been given to the Hon'ble members as provided in rules of Business. Under Rules notice of the resolution must be given before the commencement of the business of the Assembly. This has not been done. Notice of the resolution has not been given us through Rules provided notice of the resolution must be given before the commencement of the business of the

Assembly. Rule 46 provides that any member may object to the moving of the amendment if notice of such amendment on which the resolution is to be moved is not given one clear day before the day on which the resolution is moved unless the president in exercise of his powers to suspend this Rule allows the amendment to be moved.

Hon'ble President: The rule was suspended and the consent of the president was given before the motion was moved.

Kh. Mubarak Shah:- I move that this Assembly pass on to the business next in order and this resolution be postponed till the next meeting of the Assembly.

Hon'ble President:- In view of what I have already said I think the objection of the Hon'ble member is out of order.

Mr. D.P.Dhar:- Sir, I have been honored by inclusion of my name in this Committee but it will not possible for me to make myself available for the next two months. So I move that my neighbour Hon'ble Mr. Dogra may be appointed in my place as the member of the committee.

Hon'ble Mirza Mohammad Afzal Beg:- I submit that I have tried almost to have only legal talents in this Committee. I know that S.Kulbir Singh does not know Law. But some other Committees where Law knowing people will be needed are soon going to be set up. I was faced with the difficult that if all the Law knowing members were taken in this Committee we would have to face a great difficulty on account of their non availability for other Committees. That is why I have draw upon such talented persons economically. I have no objection in regard to Mr. D.P.Dhar's proposal.

Moulana Mohd syeed:- What has been decided in respect of the insertion of words " Vice President"

Hon'ble Mirza Mohammad Afzal Beg: In my option President include "Vice President".

Hon'ble President:- If Moulana Sahib studies it minutely, he will find that his aim is already fulfilled in this motion because in addition to the words

including..... The president; the words “ Office bearers” include “deputy President” as well.

Moulana Mohd Syeed:- In the translated copy that I have before me is written “ki daftar ke deehar arakeen ke taqarroriat” i.e. the appointment of other office bearers.

Hon’ble President:- The authenticated text is in English. It is written therein “appointment and powers of the office bearers”

Hon’ble Mirza Mohammad Afzal Beg: Sir, there is nothing repugnant in the word “appointment” It can be by election by selection or by nomination or by any other method that we provide for the appointment of the officers other than the president.

Moulana Mohd Syeed:- I withdraw my amendment.

Hon’ble President: Is the amendment submitted by Mr. D.P.Dhar that Hon’ble Dogra may be substituted for him in Committee acceptable to the House.

The house assented and the amendment of Mr. D.P.Dhar was adopted.

Note:- The resolution moved by Hon’ble Mirza M.A.Beg in regard to appointment of a Committee on Rules of Procedure and other matters as amended by the House was then put and adopted unanimously.

Hon’ble President: I would like to draw the attention of the Hon’ble members that they should not cross the floor of the house while going out. This is un-parliamentary. Any member wishing to leave should go out through the lobby and should not cross the floor, because according to parliamentary practice it amounts to contempt of the House.

☛ **Note:-** This finished the business of the day and the House adjourned till Monday, the 5th November, 1951

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

Monday, the 5th November, 1951/20th Katik, 2008.

The Constituent Assembly met in the Constituent Assembly chamber, Srinagar, at eleven of the clock with Mr. President Hon'ble (G. M .Sidiq) in the chair.

Hon'ble President: Those Hon'ble members of the Assembly who have not signed the register yet my please do so no.

Note: All the Hon'ble members had already signed the register.

The Hon'ble Sheikh Mohammad Abdullah (Prime Minister) Sir, I seek your permission for making a statement.

Hon'ble President: Permission is granted.

The Hon'ble Sheikh Mohammad Abdullah:- Mr. President today is our day of destiny. A day which comes only once in the life of a nation. A day on which to remember the hosts of those gone before us, and of those yet to come, and we are humbled by the greatness of this day.

After centuries we have reached the harbour of our freedom, a freedom, which for the first time in the history, will enable the people of Jammu & Kashmir,

whose duly elected representative are gathered here, to shape the future of their country after wise deliberation, and would their future organs of the Government. No person and no power stand between them and the fulfillment of this, their historic task. We are free, at last to shape our aspirations as people and to give substance to the ideals, which have brought us together here.

We meet here today, in this `palace hall, once symbol of unquestioned monarchical authority, as free citizens of the New Kashmir for which we have so long struggle here.

I see about me in this hall, my companions-Hindus, Muslims, Buddhists, Harijans and Sikhs, who first trod with me that path which has brought us to this Constituent Assembly of 1951. We fought as one, against tyranny and oppression. We survived privations and bitter struggles-the jails of Hari parbat, Bhaderwah and those other jails, which only imprisoned our bodies but could, not crush our spirit.

When we took back on these years, we see, how our footsteps have taken us not among the privileged, but into the homes of the poor and downtrodden. We have fought their battle against privilege and oppression and against these darker powers in the background which sought to set man against man on the ground of religion. Our movement grew and thrived side by side with the Indian National Congress and gave strength and inspiration to the people of the Indian States.

I may be forgiven if I feel proud that once again in the history of this State, our people have reached a peak of achievement through what I might call the classical Kashmiri genius for synthesis, born of toleration and mutual respect. Throughout the long tale of our history, the highest pinnacles of our achievement have been scaled when religious bigotry and intolerance ceased to cramp us, and we have breathed the wider air of brotherhood and mutual understanding.

Our movement to freedom has been enacted against the background of the same old struggle. We stood for the brotherhood of men of all creeds and strengthened our union on the basic of common work and sacrifice. Against us were ranged the forces of religious bigotry centered in the Muslim League and its

satellites and the Hindu Communalists from within and without the State. Ranged against us, and often in alliance with Communalism were the force of the autocratic States, backed up on the one hand by British Imperialism, the paramount power, and on the other, by the rich land owners and other beneficiaries of Court patronage.

We must remember that our struggle for power has not reached its successful climax in the convening of this constituent Assembly. It is for you to translate the vision of "**NEW KASHMIR**" into reality, and I would remind you of its opening words, which will inspire our labours.

"We, the people of Jammu and Kashmir, Ladakh and the Frontier regions, including Pooch and Chenani Illaqas-commonly known as Jammu and Kashmir State, in order to perfect our union in the fullest equality and self-determination, to raise ourselves and our children for ever from abyss of operation and poverty, degradation and superstition, from medieval darkness and ignorance, into the sunlit valleys of plenty ruled by freedom, science and honest toil, in worthy participation of the historic resurgence of the peoples of the east, and the working masses of the world, and in determination to make this our country a dazzling gem of the snowy bosom of Asia, do propose and propound the following Constitution of our State".

This was passed at the 1944 Session of the National Conference in Srinagar. Today, in 1951, embodying such aspirations, men and women from the four corners of the State in this Constituent Assembly has become the repository of its sovereign authority. This Assembly, invested with the authority of a constituent today, will be the fountain-head of basic laws, laying the foundation of a just social order and safeguarding the democratic rights of all the citizens of the state.

You are the sovereign authority in this State of Jammu and Kashmir, what you decide has the irrevocable force of Law. The basic democratic principle of sovereignty of the Nation embodied able in the American and French Constitution, is once again given shape in our midst. I shall quote the famous words of the article 3 of the French Constitution of 1791: -

“ The source of all sovereignty resides fundamentally in the Nation.... Sovereignty is one and indivisible, inalienable and imprescriptibly. It belongs to Nation”.

We should be clear about the responsibilities that this power invests us with. In front of us lies decision of the highest national importance, which we shall be called upon to take. Upon the correctness of our decisions depends not only the happiness of our land and people now, but the fate as well of generation to come.

What then are the main functions that this assembly will be called upon to perform?

One great task before this Assembly will be to devise a Constitution for the future governance of the country, Constitution; making is a difficult and detailed matter. I shall only refer to some of the board aspects of the Constitution, which should be the product of the labours of this Assembly.

Another issue of vital importance to the nation involves the future of the Royal Dynasty. Your decision will have to be taken both with urgency and wisdom for on that decision rests the future form and character of the State.

The third major issue awaiting your deliberation arises out of the land Reforms, which the Government carried out with vigor and determination. Our **“land to the tiller”** policy brought light into the dark homes of the peasantry, but side-by-side, it has given rise to the problem of the landowner’s demand for compensation. The nation being the ultimate custodian of all wealth and resources, the representatives of the nation are truly the best jury for giving a just and final verdict on such claims. So in your hands lies the power of this decision.

Finally, this Assembly will after full consideration of three alternatives that I shall state later, declare its reasoned conclusion regarding accession. This will be help us to canalize our energies resolutely and with greater zeal in direction in which we have already started moving for the social and economic advancement of our country.

To take our first task, that of constitution making we shall naturally be guided by the highest principals of the democratic constitutions of the world. We

shall base our work on the principles of equality, liberty and social justice, which are an integral feature of all progressive constitution. The rules of law as understood in the democratic countries of the world should be the cornerstone of our political structure. Equality before the law and the independence of the judiciary from the influence of the Executive or vital to use. The freedom of the individual in the matter of speech, movement and association should be guaranteed, freedom of the press and of opinion would also be features of our Constitution. I need not refer in great details to all those rights and objections, already embodied in NEW KASHMIR, which are integral parts of democracy which, has been defined as “ an apparatus of social organization wherein people govern through their representatives and are themselves guaranteed political and civil liberties”

You are no doubt aware of the scope of our present constitutional-ties with India. We are proud to have our bonds with India. The goodwill of whose people and Government is available to us in unstinted and abundant measure. The constitution of India has provided for a federal union and in the distribution of sovereign powers has treated us differently from other constitutional units with the exception of the items grouped under defense, foreign affairs and communication in the instrument of accession, we have complete freedom to frame our constitution in the manner we like. In order to live and prosper as good partners in a common endeavor for the advancement of our peoples. I would advise that, while safeguarding our autonomy to the fullest extent so as to enable us to have the liberty to build our country according to the best traditions and genius of our people, we may also by suitable constitutional arrangements with the union establish our right to seek and compel federal co-operation and assistance in this great task, as well as our fullest co-operation and assistance to the union.

Whereas it would be easy for you to devise a document calculated to create a framework of law and order, as also a survey of the duties and rights of citizens, it will need more arduous labour to take concrete decisions with regard to the manner in which we propose to bring about the rapid economic

development of the state and more equitable distribution of our national income among the people to which we are pledged. Our National Conference avows its faith in the principle that there is one thing, to men of all castes and creeds, and that is their humanity. That being so, the one ailment which ruthlessly sapping the vitality of human is being in Jammu and Kashmir is their appalling poverty, and if, we merely safeguard their political freedom in solemn terms, it will not affect their lives materially unless it guarantees them economic and social justice.

NEW KASHMIR contains a statement of the objectives of our social policy. It gives broadly a picture of the kind of life that we hope to make possible for the people of Jammu and Kashmir and manner in which the economic organization of the country will be geared to the purpose. These ideals you will have to integrate with the political structure, which you will devise.

The future political set-up, which you decide upon for Jammu and Kashmir, must also take into consideration the existence of various sub-national groups in our State. Although culturally diverse, history has forged an uncommon unity between them, they all are pulsating with the same hopes and aspirations, sharing in each other's joys and sorrows. While guaranteeing this basic unity of the State, our Constitution must not permit the concentration of power and privilege in the hands of any particular group or territorial region. It must afford the fullest possibilities to each of these groups to grow and flourish in conformity with their cultural characteristics, without detriment to the integral unity of the State or the requirements of our social and economic policies.

Now let us take up as issue of basic importance, which involves the fundamental character of the state itself. As an instrument of the will of a self-determining people who have now become sovereign in their own right, the Constituent Assembly will now re-examine and decide upon the future of the present ruling dynasty, in respect of its authority.

The present House of the Rulers of our state based its claim to authority on the treaty Rights granted to it by the British Government in 1846. To throw light on the nature of these rights it will be helpful to recall that the British power, in its drive for territorial expansion, achieved its objectives through a network of

alliances with the India princes, subsidiary and subordinate, offensive and defensive. This mutually helpful arrangement enabled the British to consolidate their power and strengthened the grip of the Princes, giving them military help in the event of rebellion by their exploited subjects. The Butler Committee Report on Treaty Rights in 1929 bears ample testimony to this.

“The duty of the Paramount Power to protect the state against rebellion and insurrection is derived from the clauses of treaties and covenants, from usage and from the promise of the king Emperor to maintain unimpaired the privileges, rights and dignities of the Princes...The promise of the king Emperor to maintain unimpaired the privileges, rights and dignities of the Princes carries with it a duty to protect the prince against attempts to eliminate him and substitute another form of Government.”

In recognition of their services to the British Crown, the India Princes earned the rewards of a limited sovereignty over their State under the protection and suzerainty of the paramount power. It was in this way that their rights, privileges and prerogatives were preserved.

Thus the pioneer of the British Imperialism subjugated India aided by the India Princes. This was hardly diplomacy, it amounted to fraud and deceit; Mutual agreements arrived at for such ignoble purpose were invested with the sanctity of treaties. And it is from such “treaties” that the Princes claimed their right to rule. Our own State provides a classic example of this. One glance at a page of our history will lay bare the truth.

The State of Jammu and Kashmir came to be transferred to Maharaja Gulab Singh in 1846. After the Sikh Empire began to disintegrate. His failure to render competent assistance to the Sikh armies was duly noticed by the British as also his willingness to acknowledge their authority. This paved the way for the total occupation of Northern India by the British who were not slow in recognizing Maharaja Gulab Singh's service to them. In reward they sold him the territory of Jammu and Kashmir for 75 lakhs of rupees, and in the Treaty of Amritsar, the British Government made over the entire country independent possession to Maharaja Gulab Singh and the heirs male of his body. In this way, the entire

population of Jammu and Kashmir State came under his absolute authority. The peculiar indignity of the transaction naturally offended the national self-respect of our people who resisted the occupation of their country. But the direct intervention of the British troops helped the Maharaja to take possession of the territory.

This event in the history of the State had catastrophic consequences for the people. The old feudal order, which was bad enough, gave way to more exacting rule, in which the Maharaja assumed all proprietary rights over land. The entire state was plunged into a chaotic economic condition, aggravated by a heavy state of taxation, tributes and levies which were required to make up for the money given by the Maharaja to the British. This unrelieved despotism reduced the bulk of the people to the level of serfs. There was general impoverishment. In 1948, some 4,000 artisans started on a trek to Lahore, with the object of permanently settling there. Even the British counseled the Maharaja to loosen his grip so as to avoid a total collapse of his administration, perhaps the forefathers of the great poet philosopher son of Kashmir, **Iqbal**, were also part of the same trail of migrants who left the state at this time. When his agony over the fate of the people of his homeland burst out in immortal verse, his feelings are echoed in the heart of every Kashmiri.

“ O wind, if you pass through Geneva, give this message to the comity of the people of the world. They sold the peasant, his field, his property and the roof over his head, in fact, they sold the entire nation and for what a paltry price”.

Invested with this absolute authority acquired 1846, the present ruling dynasty was in power for one hundred years. This sad and stern century of servitude has stultified the growth of our people, leaving them in the backwaters of civilization, while in British India, and even in some of the Indian States, many a measure of reform was introduced to alleviate the misery of the people, in this State the unenlightened absolutism of the Ruler drove them deeper and into poverty and degradation. When conditions became increasingly intolerable they made determined efforts to wrest power from the hands of the Ruler.

By 1947, India has achieved independence and reached one of her historical watersheds. It was clear that with the withdrawal of the paramount power, the treaty rights of the Indian Princes would cease sovereignty in that case should revert to the people; they wished, therefore, to be consulted about the arrangements to be made with regard to the transfer of power. But a strange situation arose. The Cabinet Mission, while admitting the claims of the Indian National Congress and the Muslim league in British India, completely refused a similar representation of the States people, who would not allow the right of the Princess to speak on their behalf.

In our own States the national Conference had made it clear as early as February 10th, 1946 that it was against any further continuance of the treaty rights of the princes which had been “made in times and under circumstances which do not obtain now and which have been framed without seeking the consent of the State peoples. Under such circumstances no treaties or engagements, which act as a dividing wall between their progress and that of their brethren in British India, can be binding on the people. It was in this connection that I invited the attention of the cabinet Mission to the standing inquiry of the Treaty of Amritsar, and sought its termination. I wrote to the Cabinet Delegation that.”

“As the mission is at the moment reviewing the relationship of the princes with the paramount power with reference to treaty rights. We wish to submit that for us in Kashmir re-examination of the relationship is a vital matter because hundred years ago in 1846, the land and people of Kashmir were sold away by the British for fifty lakhs of British Indian Rupees .The people of Kashmir are determined to mould their destiny and we appeal to the mission recognize the justice and strength of our cause”.

In the memorandum submitted to the Cabinet Mission later by the national Conference, the demand for independence from autocracy was reiterated. Today the national demand of the people of Kashmir is not merely the establishment of responsible Government, but their right to absolute freedom from autocratic rule. This immensity of the wrong done to our people by the sale deed of 1846 can

only be judged by looking into the actual living conditions of the people. It is the depth of our torment that has given strength to our protest. The indifferent attitude of the Cabinet Mission to claims of the State's people convinced as that freedom would not be given to a hundred million people who were to be left to groan under the heel of autocratic rulers. Consequently the National Conference gave a call to the people to prepare themselves for fresh ordeals and new responsibilities in the final bid for the capture of power from the hands of autocracy. This call came on the eve of the transfer of power in India and was therefore, in keeping with the spirits of the times.

The partition of India in 1947 brought many new problems and development in its wake. In Kashmir, the very foundations of the administration began to shake, and the Government made frantic efforts to patch up the cracking structure. Its incompetence had become glaring. With the tribal raids on the State in October 1947, it was obvious that the Maharaja's authority has ceased to function and the real power lay in the hands of the people's organization, the National Conference. Even at this hour of grave national danger, the Ruler failed to see the wisdom of taking this organization into his confidence and he preferred escape to the dignity of a formal surrender. When the situation became critical, the unprecedented pressure of the people forced him to call upon the representatives of the National Conference to deal with the emergency. When he himself had failed to handle the affairs of the State effectively.

The emergency Administration in the State marked in effect a revolutionary transfer of power from the Ruler to the people.

It was, however, the proclamation of March 5th, 1948, which constituted the first step towards the completion of national emancipation. On this day, I, as leader of the largest party of the State, was entrusted with its Government being assisted by the cabinet with full powers to run the administration. The Maharaja's authority was limited to that of a constitutional ruler, it imperative upon him to consult his Government on the issues relating to the governance of the State.

This was obviously an interim measures. The cabinet of the people's representatives thus chosen functioned with the support and co-operation of the National Conference. But with the passage of time it became clear that the Maharaja could not reconcile himself to this democratic system of Government. He put positive impediments in the way of the Government. These threatened to block much needed reforms in various spheres of administration. It was, therefore, national that following disagreement between him and the Government on matters of policy, that he should disconnect himself from the administration and leave the State. His young Son Yuvaraja Karan Singh thereupon became the Regent and has functioned since as constitutional Head of the State.

Today, the Constituent Assembly having met, the time has come for the people's representatives to make fundamental decision about the future position of the present dynasty.

It is clear that this dynasty can no longer exercise authority, on the basis of an old discredited Treaty. During my trial for sedition in the "Quit Kashmir" movement I had clarified the attitude of my party when I said.

The future constitutional set-up in the State of Jammu and Kashmir cannot derive authority from the old source of relationship, which, was expiring and was bound to end soon. The set-up could only rest on the active will of the people of the State, conferring on the Head of the State the title and authority draw from the true and abiding source of sovereignty that is the people.

"On this occasion, in 1946, I had also indicated the basis on which an individual could be entrusted by the people with the symbolic authority a constitutional head.

"The State and its head represent the constitutional circumference and the centre of this sovereignty respective, the Head of the State being the symbol of the authority with which the people may invest him for the realization of their aspirations and the maintenance of their rights"

In consonance with these principles, and in supreme fulfillment of the people's aspirations, it follows that a Constitutional Head of the State will have to

be chosen to exercise the functions, which this Assembly may choose to entrust to him.

Sofar as my party is concerned we convinced that the institution of monarchy is incompatible with the spirit and needs of modern times which demand an egalitarian relationship between one citizen and an other. The supreme test of a democracy is the measure of equality of opportunity that it affords to its citizens to raise to the highest point of authority and position. In consequence, monarchies are fast disappearing from the world's picture, as something in the nature of feudal anachronism. In India, too, where before the partition, six hundred and odd princes exercised rights and privileges of rulership, the process of democratization has been taken up and at present hardly ten of them exercise the limited authority of constitutional heads of State.

After the attainment of complete power by the people, it would have been an appropriate gesture of good will to recognize Maharaja Hari Singh as the first Constitutional Head of the State. But I must say with regret that he has completely forfeited the confidence of every section of the people. His incapacity to adjust himself to changed conditions and his antiquated views on vital problems constitute positive disqualification for him to hold the high office of a democracy Head of the State, Moreover, his past actions as a ruler have proved that he is not capable of conducting himself with dignity, responsibility and impartiality. The people still remember in with pain and regret this failure to stand by them in times of crisis, and his incapacity to afford protection to a section of his people in Jammu.

Saint Thomas Aquinas, as early as the thirteenth century, described the consequences of a king refusing to realize his responsibilities in these wise words:

“A king who is unfaithful to his duty forties the claim is obedience. It is not rebellion to depose him, for he is himself a rebel whom the nation has a right to put town. But it is better to abridge his power that he may be unable to abuse it. All political authority is derived from the people and all laws ought to be made by

them or their own representatives. There is no security for us so long as we depend upon the will of another man.”

Because of his background, it would, therefore, be impossible to think of his being associated again with the administration of the state.

I am sure none of us is interested in a personal controversy with the Maharaja's family. In the conduct of public affairs, it is necessary that an impartial view on every individual's deeds should be taken. Our judgment should not be wrapped by ill will or personal rancor. During our association with Yuvaraj Karan Singh these last few years, I and my colleagues in the Government have been impressed by his intelligence, his broad outlook and his keen desire to serve the country. These qualities of the Yuvaraj Singh him out as a fit choice for the honour of being chosen the first Head of the State.

There is no doubt that Yuvaraj Karan Singh in his capacity as a citizen of the state, will prove a fitting symbol of the transition to a democratic system in which the ruler of yesterday becomes the first servant of the people, functioning under their authority, and on their behalf.

The next issue before us is that of the compensation which we should or should not grant to those landowners who have been expropriated during the putting in to operation of the **“land to the tiller”** legislation, under which land was given, or given back, to the man who actually cultivates it.

It is not possible for you to consider this question dispassionately unless you understand something of the history of land tenure in the State. For us the well being of the peasants who form the vast majority of the population of this country is a top priority, we realize that on a sound organization of agriculture, and the elimination of debt and the evils of landlordism their ultimate welfare depends. We sincerely believe that our body politic cannot be healthy as long as there exists here an army of men doing little or no work and getting easy remuneration for it, and as long as we perpetuate the dangerous age old class division of our society that landlordism breeds. Our attempt has been to make our land dwellers contented we set about this fundamental reform in the following way.

On Marty's Day, the 13th of July 1950, the Government declared its policy of liquidating the landed estates and transferring land to the tillers of the soil. On the 17th of October 1950 was enacted the Big Landed Estates Abolition Act. By this Act, the right of ownership in respect of lands in excess of 22/34 acres of land excluding orchards, grass and fuel reserves, was abolished and such land was decreed to be transferred to the actual tillers to the extent of their possession. In this way, the right of the cultivator to the ownership of land in his possession was recognized and enforced and no new class of intermediaries or rent receivers was allowed to come into being. The abolition of landlordism is thus an accomplished fact and there is no going back on the decision already taken. This Big Landed Estate Abolition Act, however, provides for the Constituent Assembly to settle the question of compensation with respect to the land from which expropriation has taken place. That question is now before you for decision.

The system of individual ownership of land is of modern growth and originally, the land belonged in common to communities of kinsmen or to the State. Before the British rule, the proprietors were by no means the real owners of the soil and of all methods for the collection of revenue during that time; the most notes worthy was that of collecting it direct from the cultivators through the Headmen of the villages. There is very little evidence to show that, in Mughul and Sikh times, there were many rent paying tenants. The Ain-i-Akbari not only contains no regulations about tenants, but also recognizes no intermediary between the cultivator and the state. Nevertheless, there were some types of intermediaries in the pre British period and also in later times, and it is the existence of these intermediaries, which led to the development of landlordism in the State. The revenue farmers were one class of such intermediaries and so were the different privileges classes of assignees. Jagirdars, muafidars and mukarraridars, all enjoying feudal concession, which were created during the Moghul and Sikh times and also during the Dogra Rule.

In the Jammu Province, ownership of land was granted by State Deeds during the Sikh Rule and the earlier period of the Dogra Rule. In the Kashmir

Province, the ownership of land was held by the Ruler since 1846, when Maharaja Gulab Singh purchased Kashmir from the British. It was in 1933 as a result to the pressure of public opinion than proprietary right in land was conferred on the landholders in the Kashmir province including the Frontier Districts, but this concession to mass demand for transfer of proprietorship of land to the actual cultivators was reduced to a fiction inasmuch as large tracts of land, granted by earlier rulers to influential person, Rajas and Dewans by State Deed were construed and acted upon as grants of the right of proprietorship in land. In this manner were created big proprietors who did not cultivate their lands themselves, but had tenants who paid them rent in cash and kind. The small peasant proprietor who cultivated land with his own hands also existed, but there were cases where the cultivators who had originally acquired Holders, right and were recorded as such were relegated to the position of tenants by the right of land holding being granted by the Ruler to some of his favorites who did not cultivate the land themselves and were pure and simple rent receivers.

While the land settlement in the state was rightly made with the peasant proprietors, the settlement with the peasant proprietors, the settlement with the intermediary proprietors was not made on their recognition as proprietors on the soil, but because of certain political and financial reasons. It was well understood, even by the successive Settlement Officers and Settlement Commissioner in the State that though the intermediary proprietors were to be declared the proprietors of the soil, their tenants really were no ordinary tenants, but were, in most cases, the original and hereditary possessors of the soil. The First Regular Settlement Conducted in the State had perhaps nothing to do with the determination of the historical and accurate theory of the intermediary proprietors, position, nor was its function to confer on the proprietors' apposition comparable to what they originally were. It appears that the task of the settlement authorities was only to legalize all the original acts of illegality and usurpation by which intermediary revenue farmers or rent receivers had assumed great power and influence in the period of disorder, before a proper Revenue Administration came to the country.

At the first Regular settlement the area of land not under cultivation was very large in 1891 A.D. when the late Sir Walter Lawrence was in the State, every inducement was given to the cultivators to till the land and in his way large tracts of State land were brought under cultivators. But even such lands as had been reclaimed and brought under the plough by the cultivators were gifted away in proprietary right to influential persons. There were grants of land known as Chalks made under orders No. 5 and, 6 otherwise known as the Pratap Code. All these grants were subject to substantial concession in land revenue. There were grants in different kinds, as for instance, State Official's Grants in perpetuity. Hindu Grants and others. The vast majority of these concessionist landholders obtained their grants by virtue of the high positions they had acquired. The grants under the Pratap Code were entirely made to the clan and the kinsmen of the royal House in whose favour were also released some State Forests reserves and cultivable areas in some Game Reserves. With the demarcation of forests in the State, several areas were excluded from the forests and let out for cultivation and for purposes of agriculture, State land were similarly permitted to be used as Grazing Ground. The reclaimed land out of the Wular Lake, and in around the Dal Lake, which was owned by the State, was also released for cultivation. And then under Raj Tilak Boom No. 4 about 26 years ago, State waste lands were granted as Village Commons equivalent to the aggregate cultivated land of each village, with the same rights as the landholders enjoyed in respect of their existing holding. Even after the First Regular Settlement, many estates were sold to speculators or given over to those who were prepared to meet the land revenue demand in cases where default was made by actual cultivators, and the right to own land was recognized as that of the revenue payer as against the actual cultivator who defaulted. The non-cultivating land owners leased out their interests and the middle men leased it out in turn, creating a long chain of rent-receivers and rent-payers, who intervened between the State and the actual cultivators.

It will thus be seen that a substantial portion of the landed property came to be owned from such land as was the property of the State before and in every

case the acquisition of land was free from any encumbrance or payment of any consideration. It is in the light of this historical background, therefore, that the Hon'ble Members of this House shall have to consider whether there is any justification for payment of any compensation to such landowners for lands from which they are expropriated under the Big Landed Estates Abolition Act.

Finally, we come to the issue, which has made Kashmir an object of world interest, and has brought her before the forum of the United Nations. This simple issue has become so involved that people have begun to ask themselves, after three and a half years of tense expectancy, "Is there any solution"? Our answer is the affirmative. Everything hinges round the genuineness of the will to find a solution. If we face the issue straight, the solution is simple.

The problem may be posed in this way, Firstly was Pakistan's action in invading Kashmir in 1947 morally and legally correct, judged by any norm of international behaviours? Verdict Sir Owen Dixon's verdict on this issue is perfectly plain. In unambiguous terms he declares Pakistan an aggressor. Secondly was Maharaja's accession to India legally valid or not? The legality of the accession has not been seriously questioned by any responsible or independent person of authority.

These two answers are obviously correct. Then where is the justification of treating India and Pakistan at par in matters pertaining to Kashmir? In fact, the force of logic dictates the conclusion that the aggressor should withdraw his armed forces, and the United Nations should see that Pakistan gets out of the State.

In that event, India herself anxious to give the people of the State a chance to express their will freely would willingly co-operate with any sound plan of demilitarization. They would withdraw their forces, only garrisoning enough post to ensure against any repetition of that earlier treacherous attack from Pakistan.

These two steps would have gone a long way to bring about a new atmosphere in the State. The rehabilitation of displaced people, and the

restoration of stable civic conditions would have allowed people to express their will and take the ultimate decision.

We as a Government are keen to let our people decide the future of our land in accordance with their own wishes. If this preliminary process were accomplished, we should be happy to have the assistance of international observers to ensure fair play and the requisite conditions for a free choice by the people.

Instead invader and defender have been put on the same plan. Under various grabs, attempts have been made to side track the main issues, Some times, against all our ideals of life and way of living attempts to decide our territories have been made in the form of separation of out State religion wise, with ultimate plans of further disrupting its territorial integrity. Once an offer was made to police our country with commonwealth forces, which threatens to bring in Imperial control by the back door. Besides the repugnance which our people have, however, to the idea of inviting foreign troops on their soil, the very presence of Commonwealth troops could created suspicion among our neighbours that we were allowing ourselves to be used as a base of possible future aggression against them. This easily has made us in a second Korea.

We have watched all this patiently; but we cannot be indifferent to the growing suffering of our people. We cannot any longer tolerate being bandied about and left with an indefinite future. not only has our patience has tried to its limits, but out-self respect has been challenged by allegation that we are the “Stooges of India” and nobody in our own land, that our influence rests on Indian bayonets, that we are running a police State, and various other taunts and fantastic allegations.

We, therefore, thought it best to call upon own people to declare what future they seek. At last we, in October 1950 decided to convoke a Constituent Assembly, which would pronounce upon the future affiliations of our state. We were; and are convince that whatever some groups or individuals in the world outside might have to say about this decision of ours there are in every country many people of who have faith in justice and straightforward dealing.

I have no doubt that our considered views will be understood and supported by freedom- loving peace-loving and democratic minded people all over the world. I am sure too that Almighty God who guards all just causes will bestow. His blessings upon us and guide our footsteps towards correct and honest ends.

The problem, then, of accession has to be considered against the background of history in particular of the immediate past consequent on the British quitting India disappearance of the paramount power. The end of the war brought to ahead the question of India freedom. Let me recapitulate. The Cabinet Mission was sent to India to hammer out plans for the transfer of power. This Mission had a series of consultations with parties and Leaders of opinion in British India, but refused to agree to the people of the Indian States being represented by their popular leaders and instead backed up their old allies, the Indian Prince. I and my colleagues had at that time raised our voice against this attitude in the following words of our Memorandum.

“The fate of the Kashmiri nation is in the balance and in this hour of decision we demand our basic democratic right to send our selected representatives to the constitution making bodies that will construct the framework of free India. We emphatically repudiate the right of the Princely Order to present the people of the Indian States or their right to nominate their personal representatives as our spokesmen.”

I have no doubt in my mind that if popular representatives from the Indian States had been included in the discussions they would have certainly helped in having many controversial issues resolved fairly and smoothly. But that was not to be. To our misfortune, and to the misfortune of millions of people in India and Pakistan, the Cabinet Mission as well as the Indian political parties seemed to have been swayed by various conflicting consideration, with the result that the Indian sub-Cabinet which had acquired an organic unity through ages of social, cultural and economic intercourse, was suddenly vivisected into the two Dominions of India and Pakistan, I need not relate here the horrors that followed

this unnatural operation. Millions of hearts in both countries still ache with wounds that will not heal.

The agony of this change over became all the more intense as a result of the position in which the Indian States were left under the Indian independence Act of the British Parliament, the paramountcy of British Crown, against which the princes had been learning, lapsed, and it was made clear that it would not be transferred to either of the succeeding Dominions. There were three alternative courses open to them. They could accede to either of the two Dominions or remain independent. This gave the prince, himself the option to decide the fate of their States.

Following the announcement of the “Mount batten plan” on June 3rd some of the Indian State acceded to Pakistan and some to India by means of instruments of accession executed through their princes. There were also some who entered into standstill agreements with either or both pending finalization of their decisions.

“The betrayal of the interests of the states people had been expected following the rejections of the memorandum of the national conference, and we I Kashmir decided to place the issue before the people themselves”.

This is how our well-know “Quit Kashmir” agitation began. The National Conference once led the people through a great struggle, and once again the ruler tried to curb it this time with unprecedented severity. But when the whole people is one the move it is not possible to repress them and they do not stop until they wrest freedom and justice for themselves from the unwilling hands of those about them.

“The crucial date of India and Pakistani independence, therefore, came when I and my colleagues were still behind prison bars. The whole sub-continent was in a state of high tension and disturbance. If at that time, the Head of the state of Jammu and Kashmir had even the slightest sense of realism or a proper awareness of the danger lurking in the situation, he would have immediately taken the people into his confidence. By associating their representatives with

administration. I am sure many of the complications that arose later could have avoided.

Instead of that, the Maharaja's Government entered in a Stand Still Agreement with Pakistan, and this was accepted without question by that Dominion. A similar arrangement was suggested to India, also, but it is noteworthy that the Government of India insisted that it could not consider any agreement entered into by the Government of the State valid until it had the approval of the people's representatives.

While the leaders consistently refused to recognize the vital issue of accession without first securing the approval of his people, the Muslim league and the Pakistan Government supported the claims of the Rulers to speak for their State. The late **Mr. Jinnah** took the position that after the lapse of paramountcy, the princes were completely independent and that they could themselves determine what relations they should have with the two Dominions. Throughout the struggles that the people of Kashmir waged against autocracy, we should never forget that the Muslim League Leadership had completely disassociated itself from them and that; during the upsurge of 1946, their local party organs had assisted the administration to suppress movement.

At this crucial time, then Pakistan was under strict cover of secrecy, perfecting her own plans, and the Dawn, the Muslim League official organ in Karachi, was appealing to the Maharaja to accede to Pakistan on the grounds that he would have great freedom there than in India.

It was at this stage, taking advantage of the isolation of the Kashmiris from the rest of the world, that Pakistan imposed an economic blockade upon us with a view to starving us into submission. Attempts were made even to excite communal hatred to disrupt our peaceful civic life. Even in the face of such provocation, the National Conference, I am proud to say, took an objective and democratic stand, immediately on my release from imprisonment, I clarified the issue at a mass meeting in Srinagar. The first and fundamental issue before us was the establishment of a popular Government. Our objective might be summarized as "Freedom First" Then alone could we as a free people decide our

future associations through accession. I also made it clear that the National Conference would consider this issue without prejudice to its political friends and opponents and strictly in accordance with the best interests of the country as a whole. I said that, in the state of tension and conflict that obtained both in India and Pakistan, it was difficult for the people here and now to predict what the final shape of both would be.

You will realize, therefore, that we could not be accused of being partial to one side or the other. During that period we openly discussed the matter with representatives of the Muslim League who had come to Srinagar for this purpose. We even sent one of our representatives to Lahore to acquaint the authorities in Pakistan, with our point of view. We were thus still struggling against autocracy and for freedom when the state was suddenly invaded from the side Pakistan.

The overwhelming pressure of this invasion brought about a total collapse of the armed force of the State as well as its administrative machinery leaving the completely defenseless people at the mercy of invaders. It was not an ordinary type of invasion, inasmuch as no canons of warfare were observed. The tribesmen, who attacked the State in thousands, killed, burned, looted and destroyed whatever came their way and in this savagery no section of the people could escape. Even the nuns and nurses of a Catholic Mission were either killed, or brutally maltreated. As these raiders advanced towards Srinagar, the last vestige of authority, which lay in the person of the Maharaja, suddenly disappeared from the Capital. This created a strange vacuum, and would have certainly led the occupation of the whole state by Pakistani troops and tribesmen, if, at this supreme hour of crises, the entire people of Kashmir has not risen like a solid barrier against the aggressor. They halted his onrush, but could not stop him entirely as the defenders, had not enough experience training to fight back effectively. There is no doubt that some of them rose to great heights of heroism during these fateful days. Who can help being moved by the saga of crucified **Sherwani**, Abdul Aziz Brigadier Rajendra Singh, Prem Pal, Sardar Rangil Singh early militia boys like Poshkar Nath Zadoo, Somnath Bira Ismail, among scores

of other named and unnamed heroes of the all communities. But we, through rich in human material, lacked war equipment and trained soldiers

When the raiders were fast approaching Srinagar, we could think of only one way to save the state from total annihilation-by asking for help from a friendly neighbour. The representative of the National Conference, therefore, flew to Delhi to seek help from the Government of India. But the absence of any constitutional ties between our State of India made it impossible for her to render us any effective assistance in meeting the aggressor. As I said earlier, India had refused to sign a Stand Still Agreement with the state from the ground that he could not accept such a Agreement until it had the approval of the people. But now, since the people's representatives themselves sought an alliance, the Government of India showed readiness to accept it. Legally the instrument of Accession had to be signed by the ruler of the state. This the Maharaja did. While accepting that accession, the Government of India said that she wished that "as soon as law and order have been restored in the Kashmir and her soil cleared of the Invader, the question of the states accession should be settled by reference of the people".

Actuated by a sincere desire to avoid bloodshed and further conflict, the Government of India approached the Security Council in 1948 with a plan against Pakistan. The request was simple. The contention of India was that Pakistan was responsible for the invasion Kashmir and was continuing to help the raiders who had been employed as mercenaries for the purpose .And it was further said that legally bound as India was to clear the Jammu and Kashmir state of raiders, she might be constrained to pursue the invaders to their bases in Pakistan, which might lead to a still bigger conflagration. India, therefore, wanted the Security Council to dispose of the case as quickly as possible in the interest of peace. If this had been done, condition would have ipso facto come into being when the people of Jammu and Kashmir would have expressed their will with regard to the continuance of the accession to the Dominion they had joined. This was not to be...

This is the essential background, which we must fully take into account. Now I shall indicate some of the consideration which should be kept in view when you the Hon'ble members of this august assembly, shoulder the grave responsibility of giving your considered opinion on this issue of accession which effects not only the present generation of our people but generations yet to come.

The cabinet Mission has provided for three courses, which may be followed by Indian States when determining their future affiliations. A State can either accede to India or accede to Pakistan but, failing to do either, it still can claim the right to remain independent. These three alternatives are naturally open to our State; while the intension of the British Government was to secure the privileges of the Princes; the representatives of the people must have the primary consideration of promoting the greatest good of the common people. Whatever steps they take must contribute to the growths of a democratic social order wherein all invidious distinctions between group and creeds are absent. Judged by this supreme consideration, what are the advantages and disadvantages of our State's accession to either India or Pakistan, or of having an independent status?

As a realist I am conscious that nothing is all black or all white, and there many facts to each of the proposition before us, I shall first speak on the merits and demerits of the State's accession to India. In the final analysis, as I understand it, it is the kinship of ideals which determines the strength of ties between two States. The national Congress has consistently supported the cause of the States peoples' freedom. The autocratic rule of the Princes has been away with and representative Governments have been entrusted with the administration. Steps towards democratization have been taken and these have raised the people's standard of living, brought about much needed social reconstruction, and, above all built up their very independence of spirit. Naturally, if we accede to India there is no danger of a revival of feudalism and autocracy. Moreover, during last four years, the Government of India has never tried to

interfere in our internal autonomy. This experience has strengthened our confidence in them as a democratic State.

The real character of a State is revealed in its constitution. The Indian Constitution has set before the country the goal of secular democracy based upon justice, freedom and equality for all without distinction. This is bedrock of modern democracy. This should meet the argument that the Muslims of Kashmir cannot have security in India, where the large majority of the population of Hindus. Any unnatural cleavage between religious groups is the legacy of imperialism, and no modern State can afford to encourage artificial divisions if it is to achieve progress and prosperity. The Indian Constitution has amply and finally repudiated the concept of a religious state, which is a throwback to medievalism, by guaranteeing the equality of right of all citizens in respect of their religion colour, caste and class.

The national movement in our state naturally gravitates towards these Principles of secular democracy. The people here will never accept a principle, which seeks to favour the interests of one religion or social group against another. This affinity in political principle as well as in past association, and our common path of suffering in the cause freedom, must be weighed properly while deciding the future of the State.

We are also intimately concerned with the economic well-being of the people of this State. As I said before while referring to constitution building, political ideals are often meaningless unless linked with economic plans. As a State, we are mainly with agriculture and trade. As you know, and as I had detailed before we have been able to put through our **“land to the tiller”** legislation and make of it a practical success. Land and all it means is an inestimable blessing to our peasants who have dragged along in servitude to the landlord and his allies for centuries without number. We have been able under present conditions to carry these reforms through; are we sure that in alliance with landlord ridden Pakistan, with so many feudal privileges in act, that this economic reforms of our will be tolerated? We have already heard that news of our Land Reforms has traveled to the peasants of the enemy occupied area of

our State who vainly deserve alike status, and like benefits. In the second place, our economic welfare is bound of with our arts and crafts. The traditional markets for these precious goods, for which we are justly known all over the world, have been centered in India. The volume of our trade, inspite of the dislocation of the last few years, shows this, industry is also highly important to us. Potentially we are rich in minerals, and in the raw materials of industry; we need help to develop our resources. India, being more highly industrialized than Pakistan, can give us equipments, technical services and materials. She can help us too in marketing. Many goods also which it would not be practical for us to produce here for instance, sugar, cotton, cloth and otherwise essential commodities can be got by us in large quantities from India. It is around the sufficient supply of such basic necessities that the standard of living of the man-in-the-street depends. I shall refer now to the alleged disadvantages of accession of India.

To begin with, although the land frontiers of India and Kashmir are contiguous, an all-weather road-link as dependable as the one we have Pakistan does not exist. This must necessarily hamper trade and commerce to some extent, particularly during the snowy winter months. But we have studied this question, and with improvements in modern engineering, if the State wishes t remains with India the establishment of an all whether stable system of communication is both feasible and easy. Similarly, the use of the State rivers as a means of timber transport is impossible if we turn to India, expect in Jammu where the rivers Chenab still carries logs to the plains. In reply to this argument, it may be pointed out that accession to India will open up possibilities of utilizing ours forest wealth for industrial purposes and that, instead of lumber, finished goods which will provide work for our carpenters and labourers, can be exported to India where there is a ready market for them. Indeed in the presence of our fleets of timber carrying trucks, rivers transport is a crude system, which inflicts a loss of some 20% to 35% in transit.

Still another factor has to be taken into consideration. Certain tendencies have been asserting themselves in India which may be in future convert it into a religious state where in the interests of Muslims will be jeopardized. This would

happen if a communal organization had a dominant hand in the government and congress ideals of the equality of all communities were made to give way to religious intolerance. The continued accession of Kashmir to India should, however, help in defeating this tendency. From my experience of the last four years, it is my considered judgment that the presence of Kashmir in the union of India has been the major factor in stabilizing relations between the Hindus and Muslims of India. Gandhiji was not wrong uttered words before his death which para-praise; "I lift up mine eyes unto the hills from, whence cometh my help."

As I am said before, we must consider the questions of accession with an open mind, and not let our personal prejudices stand in the way of balanced judgment. I will now invite you to evaluate the alternative of accession to Pakistan.

The most powerful argument which can be advanced in her favour is that Pakistan is a Muslim State, and a big majority of our people being Muslim the State must accede to Pakistan. This claim of being a Muslim state is of course only a camouflage. It is a screen to dupe the common man, so that he may not see clearly that Pakistan is a feudal State in which a clique is trying by these methods to maintain itself in power. In addition to this, the appeal to religion constitutes a sentimental and a wrong approach to the question. Sentiment has its own place in life, but often it leads to irrational action. Some argue, supposedly natural corollary to this that our acceding to Pakistan our annihilation or survival depends. Facts have disproved this; right thinking man would point out that Pakistan is not an organic unity of all the Muslims in this subcontinent. It has on the contrary, caused dispersion of the Indian Muslims for whose benefit it was claimed to have been created. There are two Pakistan at least a thousand miles apart from each other. The total population of western Pakistan which is contiguous to our State is hardly 25 million, while the total number of Muslims resident in India is as many as 40 million. As one Muslim is as good as another, the Kashmiri Muslim if they are worried by such considerations should choose the 40 million living in India.

Looking at the matter too from a more modern political angle, religious affinities alone do not and should not normally determine the political alliances of State. We do not find a christian bloc, a Buddhist block or even a Muslim block, about which there is so much talk now-a-days in Pakistan. These days economic interests and a community of political ideals more appropriately influence the policies of state.

We have another important factor to consider, if the State decides to make this the predominant consideration. What will be the fate of the one million of non-Muslims now in our State? As things stand at present, there is no place for them in Pakistan. Any solution which will result in the displacement or the total subjugation of such large number of people will not be just or fair, and it is the responsibility of this House to ensure that the decision that it takes on accession does not militate against the interests of any religious group.

As regards the economic advantages, I have mentioned before the road and river links with Pakistan. In the last analysis, we must however remember that we are not that concerned only with the movement of the people but also with the movement of goods and the linking up of markets. In Pakistan there is a chronic dearth of markets for our products. Neither, for that matter, can she help us with our industrialization, being herself industrially backward.

On the debit side we have to take into account the reactionary character of her politics and State politics. In Pakistan, we should remember that the lot of the State subjects has not changed and they are still helpless and under the heel of their Rulers, who wield the same unbridled power under which we used to suffer here. This clearly runs counter to our own aspirations for freedom.

Another big obstacle to dispassionate evaluation of her policies is the lack of a constitution in Pakistan. As it stands at present, this State enjoys the unique position of being Governed by a constitution enacted by an outside parliament which gives no idea what so ever of the future shape of civic and social relations. It is reasonable to argue that Pakistan cannot have the confidence of a freedom loving and democratic people when it has failed to guarantee even fundamental rights of its citizens. The right of self-determination for nationalities is being

consistently denied and those who fought against imperialism for this just right are being suppressed with force. We should remember Badshah Khan and its comrades who laid down their all for freedom, also Khan Abdul Samad and other fighters in Baluchistan. Our nation movement in the State considers this right of self-determination inalienable, and no advantage however great, will persuade our people to forgo it.

The third course open to us has still to be discussed. We have to consider the alternative of making ourselves an eastern Switzerland, of keeping aloof from both states, but having friendly relations with them. This might seem attractive in that it would appear to pave the way out of the present deadlock. To us as a tourist country it could also have certain obvious advantages. But in considering independence we must not ignore practical considerations. Firstly, it is not easy to protect sovereignty and independence in a small country, which has not sufficient strength, defend itself on our long and difficult frontiers bordering so many countries. Secondly, we must have the goodwill of our neighbours. Can we find powerful guarantors among them to pull together away in assuring us freedom from aggression? I would like to remind you that from August 15th to October 22, 1947, our state independent and the result was that our weakness was exploited by the neighbours with whom we had a valid Standstill Agreement. The State was invalid. What is the guarantee that in future too we may not be victims of a similar aggression?

I have now put the pros and cons of the three alternatives before you. It should not be difficult for men of discrimination and patriotism gathered in this Assembly to weigh all these in the scales of our national good and pronounce where the true well being of the country lies in the future.

Mr. President:- it will be fitting here I on this solemn occasion remember the last words of one of our martyrs which still ring in my ears. In 1931, the state police has fired on our demonstrators, and many lay wounded and dying in the grounds of the Jammu Mosque. One man, supported by his old mother and young, wife was nearing his lost breath and he comforted them in their misery forgetting his own. Then he called for me. When I came to him we looked me straight in the

eyes and said. "We have done our duty. Now it is for you and the nation to carry it through to a successful end" perhaps the spirit of that hero is in this Hall today to see one fulfillment of his dreams of this land of Kashmir. Today is day of fulfillment for all-a day when we finally and triumphantly assert our right to decide our own future, free from threats of force and outside dictation.

On this historic day, we remember the Prime Minister of India, our cherished friend and never failing comrade on this difficult journey and, besides an illustrious son of Kashmir, the many friends in India and some even in Pakistan, who in the years before partitions, helped us forward. We remember the Ahrars who went to jail in there thousands for us; Badshah Khan and our friends of the frontier, now in jails and fighting for their own freedom. Nor can we ever forget our kith and kin across the ease-fire line who are at present living under the heel of the enemy. Their welfare is always dear to us and we shall continue to regard them as an integral part of ourselves.

For twenty years, Mr. President, we have journeyed to this day and our criterion in all we do must be the welfare of our people. This consideration alone must guide our decision.

Now again, I have put my deepest thoughts before you and May God, in His mercy, lead us all forward on the right path.

The Hon'ble President: Now, I call upon the Hon'ble D.P.Dhar to move his Resolution with regard to finance Committee.

Mr. D.P.Dhar:- permit me, Sir, to move the following Resolutions. This Assembly resolves: -

That a Finance Committee be appointed for the during of the Assembly consisting of: -

- (a) President who shall be ex-officio Chairman of the Committee, and
- (b) Four other members named below :-

Hon'ble Pt.Girdhari Lal Dogra;

Maulana Mohammad Saeed;

Sadar Harbans Singh Azad;

Mirza Ghulam Mohammad Beg;

(2) That the function of the Committee shall be:-

(a) to advise the president regarding the post to be created in the Assembly and the salaries and emoluments to be attached thereto;

(b) to recommend to the Assembly the allowances to be paid to the officers and members of the Assembly and its committee; and

(c) to frame budget or supplementary budget for submission to the Assembly.

(3) The president may make Standing Orders for the conduct of business of the Committee.

(4) The Secretary, Constituent Assembly, will function ex-officio as Secretary of the Committee.

(5) The Committee may co-opt any person as expert to tender such assistance in its work as may be required.

(6) That subject to the recommendation of the committee and pending the final approval of this Assembly –

(a) The president shall receive such salary and allowances as are specified in the schedule annexed hereto; and

(b) The Members shall be paid such allowances as are specified in the aforesaid schedule

Schedule to the Resolution moved by Mr. D.P. Dhar.

(1) President:

(i) Salary Rs. 1,000 per men-sum. (income-tax free);

(ii) Free furnished house if the president has not a suitable house of his own to live in at Government Headquarters. This will include free electricity and water supply;

(iii) Free car from the Government with Rs.200 P.M. for maintenance and cost of petrol consumed with a radius of ten miles of the headquarters;

(iv) Actual cost of petrol for journeys beyond ten miles radius of the headquarters but no daily allowance or traveling allowance except for journey performed by air and for halts outside the state in which he will draw actual expenses;

(v) Privilege leave as for permanent Government officers;

(II) **Members:**

(i) Allowance at the rate of Rs.25/- per diem;

(ii) Such traveling allowance as are admissible to Government officers other than Ministers drawing Rs.750 or more per month under the Kashmir service regulations.

Mr. Girdhari Lal Dogra (Finance Minister):- If You permits me, Sir, I shall ask the Hon'ble mover of the resolution whether his resolution pertains to the budget of this house or to the budget of Jammu and Kashmir.

Mr. D. P Dhar:- This resolution pertains to the budget of this assembly only. I assure my Hon'ble friend that it will not touch the other budget of the Government.

Mr. Girdhari Lal Dogra:- would the hon'ble mover make it explicit in his motion otherwise it is likely to create confusion in the Resolution.

Mr. D. P. Dhar : Sir, there is no need for it. The confusion is not in the resolution but elsewhere (laughter).

Pt. Sham Lal Saraf : I second the resolution brought forward by the Hon'ble D. P. Dhar.

Kh. Ghulam Mohi-ud-Din Hamdani: Sir, I would like to make a slight change with regard to item (a) of para (I) of the Resolution.

Hon'ble President: Is the Hon'ble member raising the same objection which has already been raised or it is some other objection.

Mr. Mubark shah: Sir, this is a separate objection.

Kh. Ghulam Mohi-ud-Din Hamdani:- Sir, my amendment is that in clause (I) (a) where it is proposed that "president shall be the ex-officio chairman" I want that some other Hon'ble member may be proposed as chairman.

Mirza Mohd. Afzal Beg (Revenue Minister):- Sir, amendment of this nature is inadmissible. It is vague.

A Voice: It has not been supported at all and secondly this amendment does not arise.

Hon'ble President:- I may point out that besides, the amendment not having been supported there is another defect in it. No proper notice was given by the Hon'ble member who moved the amendment. Under rule notice for amendments is necessary.

Kh. Ghulam Mohi-ud-Din: Amendment of this sort can be allowed even without notice.

Hon'ble President:- probably the Hon'ble member, Mr.Hamidani, has some misunderstanding created by my earlier observation with regard to a certain amendment which was allowed to be moved without any notices in this House. I gave permission to move that amendment under the powers vested in me to suspend the provision for notice, in view of the fact that list of business had not been made available to the Hon'ble members in time. So far as today's list of business is concerned it had been made available to the Hon'ble members yesterday. So notice of amendment could easily have been given as provided under rules. I therefore, hold that this amendment cannot be moved.

Mr. Mubarak Shah: Sir, my amendment is that in Clause 2 where it is provided that besides the framing of Budget or Supplementary Budget this committee can go beyond and recommend to the Assembly the allowances to be paid to the Officers and the members of the Assembly as well as its Committee the provision

where for may not be made in the Budget or Supplementary Budget. I want that the powers of the Committee may be restricted to the framing of Budget or Supplementary Budget only.

Hon'ble Mohammad Afzal Beg (Revenue Minister):- No previous notice has been given for such as amendment.

Moulana Mohammad Sayeed:- Sir, it is within the competence of the Hon'ble president if he so desire to allow the amendment even without notice but it is necessary to make a request for the same.

The Hon'ble President:- The Clause in regard to the notice for amendment can be suspended under special circumstance. But as I have already stated that the list of business for today was made available to the Hon'ble members before the commencement of today's session, so the Hon'ble member could have easily given previous notice for moving the amendment. Even if notice could not be given at least intimation in regard to moving of amendment could easily be given before the commencement of today's proceeding. As either any proper notice or any information regarding this amendment has been received, this amendment cannot be moved.

Mr. Mubarak Shah:- Sir, I would like to submit....

The Hon'ble President:- After my ruling it would be sheer waste of time of the House to have any further discussion on the subject.

Note:- The Resolution moved by Mr. D.P.Dhar was put to the House and adopted.

The Hon'ble President:- Now I would request the Hon'ble M.A.Beg to move his resolution about the Steering Committee.

The Hon'ble Mirza Moh'd. Afzal Beg (Revenue Minister):- Sir, I move the following resolution with your permission:

This Assembly resolves:

(1) That a Steering Committee be appointed for the duration of the Assembly which shall consist of:-

(a) The Hon'ble Mirza Mohammad Afzal Beg as Chairman, and

(b) These other Members named below:-

- (i) Maulana Mohammad Sayeed:
- (ii) D.P.Dhar; and
- (iii) Mr. Bhagat Ram Sharma.

(2) That the functions of the Committee shall be

- (a) to the arrange the order of business for the day;
- (b) group similar motions and amendments and secure, if possible assent of the Members concerned to composite motions and amendments;
- (c) to act as general liaison body between the president and any party of the Assembly; and
- (d) to deal with any other matter under the rules or referred to it by the Assembly or the president

(3) The joint Secretary, Constituent Assembly, will function ex-officio as Secretary of the Committee.

Mr. Moti Ram Baigra:- Sir, I second the resolution moved by the Hon'ble M.A.Beg.

Moulana Mohammad Sayeed: Sir, I would request the Hon'ble Mover through you to make his speech in support of the Resolution in Urdu because most of the members do not know English.

Hon'ble Mirza Mohammad Afzal Beg: Mr. President, Sir, I have moved for the appointment of a Steering Committee consisting of four Members. This Committee shall arrange the order of Business for Members for the duration of the Assembly. The functions of the day, group similar motions and amendments are secure, if possible, assent of the members concerned to composite motions and amendments. The function of the proposed Committee shall also be to act

as a general liaison body between the president and any party of the Assembly and to deal with any other matter under the rules or referred to it by the Assembly or the president. At present ours is a constitution framing body and while framing the Constitution we have to keep in view different rules and regulations in force at present in the country. Since this House is quite new and has no precedent to follow, it is but necessary to have the proposed Committee so that the business to be brought before the House may come before it in a presentable form. It is just possible that there may be different amendments for the disposal whereof it may be necessary to consider them outside the House and thus adjust the conflicting view points and then give them a legal shape and then put before the House. The last clause in the proposed motion is to the effect that the Joint Secretary of the Constituent Assembly will function as ex-officio Secretary of the Committee. With these words I request the House to accept the Resolution.

Hon'ble President:- The Resolution moved by the Hon'ble Mirza M.A.Beg is now before the House and it has also been seconded.....

Mr. Mubarak Shah:- Sir, so far as this resolution is concerned I may submit that this is quite a good proposal, but under Rule 14 of the Rules of Business and Procedure it is necessary that every Hon'ble member must receive previous notice of the Resolution either by post or by hand or the same should be placed on the table of the House. I think Sir; proper notice of the resolution has not been given.

Hon'ble Mirza Mohammad Afzal Beg: Under Rule 14 every member is required to communicate his address to the Secretary which, I am afraid has not been done. The Business circulated among a large number of the members of the House. I remember that the Hon'ble Minister came to me last night for certain elucidation regarding this Resolution, which I think they well remember.

Hon'ble President:- So far as this objection is concerned I think that the Hon'ble member might not have received notice of the Resolution while most of the

members have received the same. Therefore, the Resolution moved by the Hon'ble M.A.Beg is in order.

S. Harbans Singh: Sir, I rise on a point of order. My submission is that under rule 46 of Rules of Business and Procedure notice of the amendment is to be given one clear day before the day on which the Resolution is to be moved. But I may submit that I have received copy of the list of Business for today at 7 o'clock making me unable to give notice for an amendment.

Mr. D.P.Dhar:- Sir, some technicalities have entered into discussion.....My Hon'ble friend, Sardar Sahib, has mentioned that the list of Business was made available to him at 7 O'clock and it was not possible for him to put it any amendment. I would submit, therefore, you may kindly permit any member of this House to move any amendment.

Hon'ble President:- The Hon'ble member is not speaking on the point of order, but he is merely pleading on behalf of the other Hon'ble member.

Hon'ble Mirza Mohammad Afzal Beg: In the nature of general advice.

The Hon'ble President:- Had the Hon'ble member given notice of the amendment even this morning I would have allowed the same and relax the restriction in regard to the 24 hours prior notice for giving notice of amendments. Since the amendment is proposed to be moved during the course of the proceedings of the House the point of order raised the Hon'ble member is not correct.

Note: The Resolution was put to the House and adopted unanimously.

Hon'ble President:-The Business fixed for today is furnished. The House will adjourn till 11 o' clock tomorrow.

Tuesday, the 6th November 1951

The Constituent Assembly met in the Constituent Assembly Chamber, Srinagar, at eleven of the clock. Mr. President (Hon'ble G.M.Sadiq B.A.L.L.B.) in the Chair.

Hon'ble President:- (Mr.Mohammad Sadiq) I would request Hon'ble M.A.Beg to move the resolution standing against his name.

Appointment of a Committee to examine the desirability or otherwise of the payment of compensation for lands expropriate under Big Land Estate Abolition Act.

Hon'ble M.A.Beg (Revenue Minister):- Hon'ble president, I formally move before the House the resolution standing against my name on the Order paper.

"Whereas it has been provided in section 26 of the Big landed Estate Abolition Act, 2007, that the question of compensation with respect to the Land from which expropriation has taken place under the said Act, shall be settled by the Constituent Assembly of the State.

This Assembly resolves:-

(a) That a Committee consisting of the mover as the Chairman and ten other named below:-

- (1) Maulana Mohammad Sayeed,
- (2) Pt. Janki Nath kakroo,
- (3) Mr. Mir Qasim,
- (4) Mr. Ghulam Ahmad Mir,
- (5) Wazir Ram Saran Dass,
- (6) Mr. Sagra Singh,
- (7) Mr. Chela Singh,
- (8) Mahasha Nahar Singh,
- (9) Mr. Ghulam Rasool Kar,
- (10) Mr. krishan Dev Sethi.

be appointed to examine the desirability or otherwise of the payment of compensation for lands expropriated under the provisions of the said Act ;

(b) that the committee may consult the views of various interests and section of the public during the course of its deliberation;

(c) that the chairman may delegate his functions to any other member of the committee in his absence;

(d) that the committee may co-opt any person as an expert to render such assistance in its work as may be required;

(e) that the committee shall submit its report to the president of the Assembly within three months for this date;

*I have in my motion requested the House to constitute a committee which will submit its report about payment of compensation or other wise to the landlords with respect to the land from which expropriation has taken place under the big landed estates abolition Act, and the ownership where of has been granted to the tillers. The Hon'ble members of the house already know that the agrarian policy of National Conference is given in our Programme "New Kashmir" wherein we had already declared eight years ago that the real owner of land was the actual tiller of the soil Keeping this principle in view the first and foremost Problem of our State is to solve the agrarian question.

Our Quaid-i-Azam had declared last year on Martyr's Day that all those persons who own land in excess of 182 kanals would forego their ownership in respect of such lands from the date of enforcement of the Big Landed Estates Abolition Act. And after abolition of previous rights of ownership the person who was its actual tiller from kharif S.2007, would become the owner of land. After the deceleration of this policy, the Big Landed Estates Abolition Act was enforced and under its lacks of kanals of land have been transferred to the tenants as stated by the Qauid-i-Azam in this house yesterday. After the enactment of this law the issue which has been raised by the owners of the land is that they may be compensated for the ownership of which have been deprived. Under declared policy of the National Conference no such landlord is entitled to any compensation but you have provided in section 26 of Big Landed Estates Abolition Act that the question as to whether the previous owners of the land are entitled to any compensation or not would be placed before the constituent

Assembly when it is covered in the State. Until the constituent Assembly decided the question of compensation the landlords affected by the Act would be paid as an annuity for the first year after expropriations an amount equal to $\frac{3}{4}$ 4th of the land revenue, for the second year $\frac{2}{3}$ rd of such land revenue; but the proportion of this compensation or allowance would not exceed Rs. 3,000. According to decision of the National Conference the Constituent Assembly was held after one year of the enforcement of the Big Landed Estates Abolition Act and today this question is being moved before this House as to whether or not the **Jagirdars or Chackdars** who held land in excess of 182 kanals will be paid any compensation, for their expropriated land. As has been said by the Quaid-i-Azam in the speech yesterday that this House has to decide whether such landlords should be paid any compensation. In the right of these events we may have to go through the past history which will reveal the circumstance and principles under which these landlords had achieved the ownership of these big lands. After studying that we will have to decide whether they have any right to compensation or not keeping in view the present conditions. The fact is that in the past times people considered God as the sole owner of the land and the history bears witness, to this fact. In view of this Divine theory the rulers who were held as images of God came to be considered as owners of the land. This principle was accepted during the Hindu, the Muslim and the Sikh period. But in the beginning of the Hindu rules the proprietary right of the lands were vested in the joint family and there was no appreciable change during the Muslim period excepting that some protective measure were adopted for realizing revenue to a certain extent so that a part of the produce may be realized by the State. During the Sikh period the same case of people who realized revenue during Muslim period continued to do so this class consists of such people who had rendered either Military or some meritorious service to the Government of the time. These were people who were kept incharge of the work of realizing produce of land from the peasant with result that the tiller who used to toil on the land came under the influence of this class also realized the share of class. The intermediary government and the same practice was followed throughout these different regimes namely that the

ownership of land was not considered to vest in the tiller but the State and thus the State was considered the real owner of the land. The man toiling on the land did not enjoy such privileges as were enjoyed by the non-tiller. The tiller was deprived of proprietary rights as also of the right of purchase sale or mortgage of land on which he labored in Hindu, Muslim and Sikh periods the tiller of the soil was under an iron grip of the rulers after these regimes the Dogra rule came into being under the patronage of British with the result that new conditions prevailed and a new system of purchase and sale of land was introduced. The Dogra rulers who held the reins of the Government of the State by the hand of the British assumed their power through a sale deed. They held according to this sale deed purchased against cash payments all land forests rivers and flora and fauna. They had in fact purchased the whole nation and the country at too cheap price. This also adversely affects the agricultural System of the State. This class consisted of such influential people as had fought for the Government during the wars or who by securing the goodwill of the Government become the recipients of this reward. Notwithstanding these concessions the Government gave away villages and 'parganah' to this class by way of royal favours. In the early period of history the peasant was considered the only owners of land. But after this class of royal favours it was thrust upon them who thus came into possession of lakhs of kanals of land. The British Government also came to their help. The alien Government probably wanted to create such an atmosphere would strengthen the foundation of their Government. The history also bears testimony to the fact as to how the favourite class became the owner of lakhs of kanals of land without paying the penny for the same. The tale of Jammu is that lakhs of kanals of land were given away to such people on 'pats' and 'patas'. But the treaty of Amritsar was the noose round the neck of Kashmir. The land of this country came into the possession of such persons who were quite ignorant of peasantry and agriculture systems. Such class of people who thus came into existence demand now compensation in order to nullify the effect of the Big Landed Estates Abolition Act. This class in the past had, by snatching away the rights of peasants, acquired land. The wealthy and influential class, after creating

misery for the tiller trampled upon his rights for a considerable time. Though this class was not toiling on the land personally still though the favours of the rulers their names adorned the revenue paper.

This big class now, claims compensation and this question will have to be decided by you and the House collectively. With the passage of time various proclamations from the rulers in the form of Raj Tilak Boon, Pratap Code and similar other Aians were announced from time to time. These proclamation were either to denote the ruler's sweet will or were issued on some alms-giving occasion. These rules used to distribute the cultivable lands amongst their favorites i.e., this system of granting gifts in the shape of land was limited to only kinsmen and favourites with the result that a new class sprang up after snatching land from the toiling peasantry. This refers to the time when Sir W. Lawrence introduces the system of land Settlement in the State. Those Hon'ble Members who hail from villages have enough knowledge regarding Aien No. 5 Pratap Code and Raj Tilak Boon. Whatever be the name of these royal proclamations, it is a fact that these have been the cause of degradation and backwardness of the State. The blood of these people who keep the country alive and serve as a backbone to the country has been sucked through these proclamations and a class of favourites was given all the benefits to enjoy. Not only land was granted to these favourites but the most precious wealth which God has bestowed upon us in the shape of forests was also given away in proprietary right to such people through it originally belonged to the country and the whole nation. In Jammu dozens of Rakhs were given away to such persons whose names I do not want to disclose. In most of the Tehsils of Kashmir such as Budgam, Sopore, Kulgam, and Baramulla lakhs of kanals of land have been transferred in ownership right to this favourite class. You will not find the example in the history. The other class consists of such people who have acquired land according to rule No. 4, 5 and 6 are on the basis of patas and partas. Now this class also demands compensation. The House has also to see how far these people were justified to have ownership right on such lands. While deciding this you have also to keep in view the benefit derived by these landlords during all these years and today

when we are transferring such lands back to the peasants you have seen how far they are justified in demanding compensation. The final decision is to be taken by you.

Maharaja Hari Singh, on ascending the **gadi** in 1924-25 issued a royal proclamation called by Raj Tilak Boon. On these basis of this declaration which we name as royal favour the Maharaja permitted the landlords to annex village common lands (Shamilat) with their holdings and these Shamilat (village common lands) came into the possession of landlords to the extent of cultivated land they already possessed i.e. that the land holder who had one thousand kanals of land got further one thousand kanals of land grant of the basic of this Raj Tilak Boon and those had two thousand kanals of land got two thousand kanals of Shamilat land and those who where in possession of 2 kanals got only two of Shamilat land, which means:-

“Whom something is given once is continued to be given indefinitely”

And who was already deprived of any land was precluded from being benefited by the distribution of common lands. Deceit and fraud also took place while these orders where operated upon so much so that the land of such poor man who had only 10 to 15 kanals of land was grabbed by the influential elements and annexed with their lands with the result that the pity landholder lost practically everything. In Kashmir 1.60,000 acres of land, 3,10,000 acres of land in Jammu where given away under Raj Tilak Boon, and if we calculate the area of this land in kanals it comes fourty lakhs of kanals of land. The third class consists of such people who possess land in excess of 182 kanals and who have taken forty lakhs kanals of land under the patronage of royal favours now under the Big Landed Estates Abolition Act the property rights of such people have been liquidated these people now demand compensation for the expropriated lands. There is another class, which Maharaja Hari Singh brought into existence through a new device, which he introduced during his regime. According to this a Jagirdar who surrender his cash jagir was to receive twice and four times equivalent land in Jammu and Kashmir respectively that is a Jagirdar who will be in a possession of two thousand kanals of land will get four thousand kanals of land in Jammu and

Eight thousand kanals of land in Kashmir. Thus a temptation for the occupation of lands in Kashmir was thrown and they were also told that they could also search most fertile lands in lieu of their cash jagirdar and that their revenue would be fixed accordingly to Purls Dh. Thus lakhs of kanals of land came into the possession of such people. Not that made barren lands cultivable or forests or brought uncultivable lands under the plough but they took the possession of such land into their hands which had already been made cultivable by the sweat and blood of your fore-fathers who were holding the possession of such lands from times immemorial. In brief these Chakdars and jagirdars were forcibly thrust over the heads of these kisans as owners of land. The fourth class now consists of such people who own land in excess of 182 kanals for which they demand compensation. Now you will please consider what historical, moral, and legal justification has these people in demanding compensation. You, Sir, would now decide the question as to who for these people are justified in demanding compensation. It will be recalled that Maharaja Gulab Singh had purchased this State for 75 lakhs of Rupees but he had not enough of money in hand at that time so he was in search of a money-lender. It is said that he found a money lender whose name was Dewan Jawalla Sahai who gave money to Maharaja Gulab Singh and the timely help of the money-lender resulted in an agreement between Maharaja Gulab Singh and the Dewan by which it was decided that the premiership of the State would be vested in the family of the Dewan for generations to come and more over the State revenue could be distributed between the Dewan and the Maharaja in the ratio of $\frac{2}{14}$ and $\frac{14}{2}$ respectively. After some time the Maharaja thought that he has made the Dewan his partner in the State revenue for nothing so it would be better to oust him from the Government and with this object in view he persuaded him to select lands permanently for himself in the province of Kashmir and Jammu instead of receiving a share of $\frac{2}{14}$ per rupee of land revenue. So the Dewan transferred to his own name the lands in various Tehsils of the State such as Islamabad, Kulgam, Awantipora, Samba, Ranbirsingh-pura etc. today a widow of this family owns 1,20,000 kanals of land and we have given her under this Act only 182

kanals of land. She demands compensation for such land which has now been given to the tillers similarly their was Raja of Chenani who owned 3,10,000 kanals of land. It is said that this land was granted to him at the time of conquests and victories with the result that his name still adorns the revenue papers. It is a fact that when any country is conquered, the conqueror becomes the owner of that land; but Settlement Officers have pointed out that Raja of Chenani held too much of land in ownership right and he appropriated the lands of other people by various methods and the Raja Sahib also demands compensation for such land which has now been transferred to the tillers under the Act. This House has now to decide as to what compensation be given to the Raja Sahib and on what basis. In the Hindu period the lands were granted to a chosen few from the time of their ancestors and those who cultivated lands by the sweat of their brow had to remain as serfs. Today history has taken a new turn and under the leadership of Sher-i- Kashmir, fifteen lakh of peasants raise their suppressed heads with pride in order to regain the right snatched from them six hundred years back. (Cheers)

The **Chakdar** and the **Jagidar** have sucked the blood of the peasants for the last six hundred years and their bodies have been reduced to a skeleton. The hunger of the greedy **Jagirdar** remains unstated. He still cherishes the desire of chewing the bones of this downtrodden tiller of the soil. You have to see whether such people be given any compensation. The other question is that from whom should such compensation be realized. The position of the Jagirdar is already known to you. Till the time of Quaid-i- Azam's declaration of granting land to the tiller the peasant of Tehsil Kulgam could not get even a yard of land for burying their dead because the ownership right of all that land vested in the Dewan. An innocent child of a poor peasant was held guilty of lifting from ground the rotten fruit, which had fallen from a tree. This condition of the kisans and peasants prevailed from centuries. These kisans had neither food for their stomachs' nor cloths for wrapping their naked bodies. They were not able to have food for a month even after toiling for full twelve months. The condition of Harijans was still worse. There existed such a barbarous system that even the entry of the name of

the Harijans in the revenue papers was considered a sin (Shame). These people were kept not only as serfs but were put into worst condition than that should we now demand compensation from such people?

Mr. Bhagat Ram Sharma:- Sir, the motion before the house is that a committee should be set up to decide the question of compensation. The Hon'ble mover happens to be the chairman of the committee .He has expressed his opinion beforehand. It is given in the resolution that the Committee has to submit its opinion in the form of a report before the House within three months time. So my request is that the expression of opinion at this stage is not necessary. It should be kept in view.

Hon'ble M.A.Beg:- Sir, so far as I have understood, does the Hon'ble Member mean to say that three months time is not sufficient?

Hon'ble President:- The objection of the Hon'ble Member is that you have expressed opinion beforehand in this behalf.

Hon'ble M.A.Beg:- I beg your pardon sir, I have only related the chapters of history. I have not given my opinion. The House has to decide the question.

Mr. Mubrak Shah:- Sir, it is not yet known whether the Hon'ble mover will be acceptable to the House as Chairman of the Committee.

The Hon'ble President:- The object raised by the Hon'ble Members is not in order. The Hon'ble mover has only stated the facts on the basis of which he wants to setup a Committee. He has only related some historical events and so far as I understand, he has not expressed his opinion.

Hon'ble M.A.Beg:- Sir, I was perhaps narrating the story of those people who acquired land by various methods and was telling you how the entry of the names of the Harijans in revenue papers was considered a sin. Now lakhs of peasants consisting of Harijans as well have become the owners of land by the help of National Conference and have been entered in the revenue papers. The question is now asked whether these Jagirdars should be paid compensation or not for this change of entry in the records in Kashmir. We have not yet forgotten those events as to how the representatives of Jagirdars used to encircle the produce of the tillers during autumn season in order to distribute the gathered

produce between the nominal owner and his agent with the result that these agents did not leave any grain for the peasants. Thus a great injustice was meted out to these toiling people. Now the real owner of land wants to get the fruits of his labour. The nominal owner has derived enough benefit from these lands and now he demands compensation on the plea that his ownership of land has now been transferred to the poor Kisan, so the Kisan should now pay the compensation to the nominal owner for the ex-appropriation of land. The Settlement reports and the opinion of Settlement Officers reveal the fact that the rules of the country have granted every possible concessions to the influential persons and the favourite class were given every opportunity to enjoy such privileges, for instance in the Settlement reports Mirpur and Reasi the Settlement Officer have strongly observed that a favourite class has been granted Jagirs after Jagirs. Another Settlement Officer has been marked that influential people have been granted jagirs upon jagirs to which they were not entitled. Such is the opinion of Settlement Officer. We have seen to how far the grant of compensation demanded by these big Chakdars and Jagirdars is justified. Before and after 1991 when the Land Revenue Act was in force there were people who purchased lands or acquired it on mortgage by spending money. The members of the House have to see which out of this class of people deserve compensation. This is a separate question that Chakdars and owners have been allowed to hold lands up to 182 kanals. We have also to see such owners who have purchased land more than this during last 20 years. The point at issue is whether such people deserve our attention or not and that how long these lands were in their possession and how much capital have been invested on such lands and how much benefit has been derived from such lands. If the House decides, after adopting my motion, to give compensation to such owners, the Committee has to see wherefrom the compensation will come and to what extent it will affect the tiller. I have just now told you the condition of the peasant who has no clothes to shield his body and who carves for a morsel of fool. Economically he is so backward that he could hardly be called a human being. The National Conference and Quaid-i- Azam have raised him to the level of

humanity after centuries of servitude. And he has been raised him to the level of a man only in the course of last twelve months. I am pained that the voice of Sher-i-Kashmir will not reach enemy held areas of Mirpur, Poonch and Muzaffarabad so that peasants of these areas be also benefited but I assure you, Sir, that Quid-i-Azam Sher-i-Kashmir bears the same sympathy and love towards the peasants of enemy occupied areas who live across the cease-fire line which he has for the peasant of the side of cease-fire-line (Cheers).

Our opponents have not only bowed down before Sher-i-Kashmir but also before the outside World, British and America from where it emanated that Sher-i-Kashmir has faced this problem with a little resistance and this has set an example for other countries like India and outside World to follow where this problem has proved complicated, (Cheers).

Our opponents, have not only bowed down before Sher-i-Kashmir but also before the outside world, Britain and America from where it emanated that Sher-i-Kashmir has faced this problem with a little resistance and this has set an example for other countries like India and out side world to follow where this problem has proved complicated,(**Cheers**)

Sir, I want to point out that this Government has solved this problem with such ability, courage and valour that Shree Nehru has also been pleased to remark that thirty five crores inhabitants of India envy the approach of Sher-i-Kashmir to this complicated problem (Cheers). So the credit goes to Sher-i-Kashmir and the national Conference for such enviable decision and proud results. These golden achievements demand that it should decide the compensation with similar wisdom and sympathy, protecting the oppressed. With these unambiguous words I request the House that it should agree to setup a Committee which will submit its report after due consideration suggesting a decision of the question of payment of compensation or otherwise to the landlord in the same way in which you have solved the basic issues. I am grateful to you, sir, and to the House who have given me patient hearing and I now commend my motion to the House.

S.Harbans Singh Azad :- Sir, I would like to state some facts while seconding the motion. The world is going ahead rapidly for the last few years, particularly in respect of the food problem, which faces the world at present. I understand that the production of such countries where the peasants have been made the owner of land has increased from which it can be inferred that for increasing the produce of land the peasant should be made the owner of land. The countries where peasant proprietorship is in vogue have made rapid progress.

Hon'ble President: - I may inform the Hon'ble Member that the motion before the House relates to the setting up of a Committee to decide the question of payment of compensation to landlords and jagirdars and not the peasants should be made owners of land or land should be distributed among them.

S.Harbans Singh Azad :- Sir, I am coming to this issue. In my opinion the National Conference is committed to the distribution of lands among peasants without payments of any compensation. The fact is that the landlords were granted lands on the plea that they had supported the ruling family. But the next generation arises whether people who have acquired land by spending money should be paid any compensation. So far as jagirdars and Chakdars are concerned they have derived ample benefit from such land. There are also people who acquired land through bribery about which I could quote example but I will refrain from doing so. A few high officials have purchased enough of land and I am surprised to know the source wherefrom they got so much money. Some Tehsildars and other officials of the Government possess so much land that we are surprised how they managed to procure such big amounts to go in for such big areas of land. It is clear that these people must have sucked the blood of people and purchased their land with their money. Their sins are of much more heinous nature than that of the **chakdars-Jagirdars** and moneylenders. There are various money lenders and 'wad-dars' who have purchased thousands of kanals of land we are being pressed by various quarters for granting compensation to such people in the plea that they have purchased land by spending money. In this connection you have also to keep in view the background in regard to means resorted to by these people to get huge amounts.

This is an important issue. Certain cases may be deserving of sympathetic consideration. The Compensation Committee has to examine this fact seriously and has to solve this problem by keeping in view the betterment of masses.

Hon'ble President:- some amendments of this motion have been received, I request Mr. Assadullah to his amendment before the house.

Mr. Assadullah:- Sir, I have no objection to this motion so far as the aims and objects of this resolution are concerned. However, my amendment is that in paragraph I, line 4 the word 'from' substituted by the word 'for'

Hon'ble President:- before the Hon'ble Member speaks on this amendment, I want to draw his attention towards section 26 of the Big Landed Estates Abolition Act. The word 'from' is given in the said Act does the Hon'ble Member want to amend this clause of the Act. The clause reads as under:-

"There shall until the Constituent Assembly of the State settles the question of compensation with respect to the land from which expropriation has taken place under this Act". So I think Hon'ble member is not Competent to amend this Act.

Mr. Assadullah:- Sir, I withdraw my amendment after your elucidation.

Hon'ble President:- Do you want to withdraw the next amendment also?

Mr. Assadullah:- Yes, Sir.

Hon'ble President:- Notice for another amendment has also been received. I will now request the Hon'ble member whose name is not legibly written to please move his amendment

Mr. Ghulam Nabi :- Sir, this resolution which recommends the appointment of a committee is one of the best proposals. I suggest the following amendment to this resolution:-

"The name of Mr. Abdul Gani Trali may be substituted in place of Mr. Qasim on this Committee."

Maulana Moh'd. Sayeed:- Sir, I would request the Hon'ble Member to speak allowed because most of the members of the House do not hear him.

Hon'ble President:- I would request the Hon'ble member to speak a little louder so that all members of the Assembly may be able to hear him.

Maulana Moh'd. Sayeed:- Sir, all the amendments which are proposed in the House should be put before the House before the withdrawal by the propose, so that the Members who wish to speak on such amendment may get the opportunity to do so. May be the some Hon'ble Members would like to speak for or against the amendment. In the end, the decision should first be taken on the amendments and then on the original resolution.

Hon'ble President:- It is not necessary, at this stage, to follow the procedure suggested by Maulana Mohammad Sayeed. The Hon'ble Member wishes to withdraw the amendment under rule 47, it is necessary to have the permission of the House for withdrawal of the amendment. Moreover, the amendment was not such nature upon which the House could express its opinion.

Hon'ble Health Minister:- Sir, the amendment was not even seconded.

Hon'ble President:- The amendment has, however, been put before the House and the Hon'ble Member wants to withdraw it now which requires the permission of the House.

Note:- The amendment was withdrawn with the permission of the House.

Mr. Ghulam Nabi : Sir, my amendment is that the name of Qazi Sahib may be substituted for Mir Qasim in the personnel of the Committee.

Hon'ble President:- What do you wish to say?

Mr. Ghulam Nabi:- Sir, three members from Anantnag have been taken in the Committee. We had better to take Qazi Sahib in this committee, as he is an experienced man.

S.Kulbir Singh : Sir, I want to say that the subject under discussion does not concern any particular illaqas of the country but it relates to the entire country.

Hon'ble President:- The amendment put forth relates to the substitution of one member for the other on the Committee. Are you speaking about the very amendment?

S. Kulbir Singh:- I have said about this very matter.

Maulana Mohd. Sayeed:- Sir, I rise on a point of order. So far as moving of amendments to a resolution is concerned, the right course is that the mover of

the resolution should have the right of reply and the rest of the members can either support or oppose the motion but cannot say anything in reply.

Hon'ble Prime Minister:- Sir, the opposer of the amendment should have every right to advance his arguments.

Hon'ble President:- When an Hon'ble Member moves an amendment to resolution, the mover of the resolution has a prior right to express his opinion whether he can accept the amendment or not.

Hon'ble M.A.Beg:- Sir, I beg to explain that so far as members from Anantnag are concerned Pt. J.N. Kakroo's selection was particularly guided by the consideration of representing an angle on the Committee which was necessary and Mr. Ghulam Ahmed happened to be a member of the Land Reforms Committee representing landlords' interests there. He had gained considerable experience there. He is one of the landlords who have been affected by Big Landed Estates Abolition Act. It was necessary to have such a gentleman on the Committee. So far as Mr. Mir Qasim is concerned, it is intended to utilize his services as Secretary of the Committee and help other experts whom we shall invite for the purpose. It has not been possible to have members from every Tehsil. For instance Kulgam Tehsil is not represented and similar is the case with some of the Tehsils of Jammu Province. After all, the report of the Committee is to come before the House and Hon'ble Members are entitled to modify it in any manner they like. If the Hon'ble Members will see through the personnel of the Committee, They would see that landlord; pure tenants, cultivators and even those who are not cultivators have been taken on the committee. In this explanation I believe the Hon'ble mover of the amendment must feel satisfied.

Mr. Ghulam Nabi : Sir, I want to withdraw the amendment.

Note : - The amendment was withdrawn with the permission of the House.

Hon'ble president:- Those Hon'ble members who want to speak on the main resolution may do so now.

Hakim Habibullah : Sir, Want to raise some objection. It has already been held that land is the private property of the tillers rather it is the property of those who

till it. In order to remove injustice, which was prevailing for the last so many centuries it was unanimously passed by the Government under the efficient leadership of Sher-I-Kashmir that land must be distributed amongst the peasants. When such a benevolent Act was passed by the Government why half of it i.e. the proposed resolution should be left for the Assembly. The question of compensation could easily be decided by the Government. So my objection in brief is why only the Government and half left had taken half of the action to the House.

Hon'ble President:- Are you speaking for or against the resolution ?

Hakim Habibullah:- So far as the appointment of the Committee is concerned. I have no objection but the point raised by me needs explanation from the Hon'ble mover of the resolution.

Hon'ble Prime Minister: Sir, he has raised a point of information.

Kh. Mubarak Shah:- Sir, the motion moved by the Hon'ble mover in the House today relates to such a legal measure as has added a new chapter worthy to be written in golden letters in the history of democratic Government of the world. The examples of such feudalism existed in France and Russia where the capitalists tramped the poor under their heels and where the exploiter crushed the poor for centuries which resulted in arousing the poor masses who shattered that system by force. Such elements do not exist here to day. Here in this country the Big Landed Estates Abolition Act did not result in what it had resulted in other countries. When the poor people of Russia and France rose against the feudal system, there was bloodshed and massacre, which affected the other countries also. Congratulate you that you brought about a bloodless revolution in the Country (cheers), which will be written in golden letters in the history of our country and will be considered a great miracle in the world. But it is amazing that the question of compensation is now being brought before the House. The

Hon'ble Leader of the House remarked that no compensation should be given. The social justice also demands it, today, that why should those jagirdars who have sucked the blood of masses for the last 100 years and made their fortunes by exploiting them be compensated? There arises a question also that when the State had proprietary rights over the land then how does the question of compensation arise. When the lands from big landlords were transferred to the tillers i.e. the rightful owners of the land, how do these big landlords claim compensation? I want to tell this House plainly that the feudal system that has exploited our brethren for centuries reducing them to destitution should be totally done away with. May be, that some of our friends have purchased land so they should be given compensation. I would request the Hon'ble Members to keep this fact in view that these people have also derived much benefit from their lands. A kanal of an 'Abiland' before a few years was being purchased for eight or nine rupees. The purchaser has derived much more profit than the amount he spent on it. So the payment of compensation to these people also is not genuine because that burden will fall on the shoulders of the poor tiller as the amount of compensation has to be realized directly or indirectly from him. My request is that no compensation should be given and with these words I conclude my speech fully supporting the Hon'ble mover's Motion.

Hon'ble Prime Minister : Sir, in extending my full support to the motion of Hon'ble M.A. Beg. Recommending the constitution of a committee to examine the question of grant of compensation. I would like to throw some light on the different aspects of the problem . So far as the basic principle is concerned, we have already decided as a Government that the land should be transferred to the Kisan. The National Conference which is one of the most popular organizations in the State has also extended its support to this decision. I am proud of being the leader of the Government which came into existence through the struggle of this party. On assuming the reigns of the Government we decided to redeem the pledges which we had made to the nation. Some of the friends of the National Conference remarked that although the National Conference was the largest

party yet there was every likelihood of other parties cropping up which may not see eye to eye with the view point of the National Conference. So long as there is no representative Government in the country; it cannot be said that the decision of the Government is the decision of the whole nation.

Another question which faced us was that the majority may not approve the idea of granting to lands to the tillers without payment of any compensation. They may also like that the Jagirdars from whom lands have been snatched away should be compensated. I thought that this reasoning was correct to some extent and that it is possible that the majority of people may favour grant of compensation. However, we are of the opinion that the land should be transferred to the tiller. The National Conference has a set Programme before it. This Programme was laid down in the year 1938 in booklet entitled "New Kashmir" through which the Social, Political Economic and Educational Plan of the National Conference was unfolded to the World. The National Conference shaped its policies from time to time according to this plan. When the National Conference assumed power, it was necessary that she should as a Government carry out all those promises, which she has made to the nation and for the attainment of which the country has made all sorts of sacrifices. We thought that we have to fulfill all those promises. One of these promises was that the land would be given to the tiller.

Some people raised the question as to how could the National Conference solve this question without eliciting the opinion of the masses. We said that the National Conference would settle the question in the same manner in which it has assumed the charge of the Government. Had the Constituent Assembly been existed in the State at the time, the question could be got decided through it. But there was no such Assembly and the conditions prevailing at that time in the country are well known to you. We will fulfill all those promises, which we have given to the nation and the country. The time also demands that those promises should be carried out and that the land should be given to its real

owner- the tiller. At last it was decided that a Constituent Assembly should be convened and the question of payment of compensation or otherwise to the landlord should be decided by the people's representatives assembled therein. The question now before the representatives of the country is to decide as to whether the landlords whose lands have been distributed among the tillers should be given any compensation or not. An Hon'ble Member of the House was justified in asking as to why the Government decided one half of the problem by themselves and why the other half was left to this House. The fact is that we could not delay the taking over of lands from landlords because the world demand that the land should be owned by such persons who raise the produce there from through their sweat and blood i.e. the land should belong to the tillers and without this the establishment of peace in the world is not possible. Under these circumstances, we could not afford to wait till the establishment of the Constituent Assembly and the decision of this issue by that body as by that time it would have been impossible to ensure peace and there was every apprehension of the country being ruined entirely. Some difference of opinion is apparent so far as the question of compensation is concerned. The National Conference, as a party, is of the opinion that the landlords should be given no compensation. I understand that though the National Conference is a popular party in the whole country yet there also exists a party of these Jagirdars and Chakdars who want that landlords should be compensated. They have also set candidates to contest the recent elections against the National Conference: and their slogan was that landlords should be granted compensation for their expropriated lands. We decided that for the 1st year $\frac{3}{4}$ th of the revenue assessed on the land from which expropriation has taken place be paid to the landlord. The landlord has not to receive this $\frac{3}{4}$ th of the revenue from the peasant out of the revenue which the Government will now realize, from the peasant for the 1st year $\frac{2}{3}$ rd for the second year and for the third and subsequent years $\frac{1}{2}$ of such land revenue till the time the Constituent Assembly decides this question. Now there remains the question as to why we left this problem for the decision of the Assembly. I want to tell you that there is no

difference about the distribution of land among the tillers because the owners of land also agree to this in principle that land should be transferred to the tillers. The difference relates only to the grant of compensation. We were quite confident that the National Conference candidates would be returned in the elections but there was also the possibility of the return of some members of the other party. Had that been the case, we should have expected lively discussions taking place here and I personally would have welcomed these, as there are certain people in the State who favour the grant of compensation. In the light of the historical facts narrated by Mr. M.A. Beg showing how these big landlords had acquired lands and keeping in view all these factors you can say as to why the question of compensation has been raised at all.

The fact is that we wish to do things above board and we want to acquaint the people with all the issues, which we have to decide. Had the party favouring the grant of compensation be returned to this House this question would have been decided here, in accordance with the wishes of the people. The National Conference stands committed to the non-payment of compensation and the members of this organization alone have been returned. The big landlords perfectly knew it that they could not succeed in the field before the National Conference and they also knew as to how those people whose forefathers have suffered tyranny and oppression from these big landlords could cast their votes in their favour. The party, under the circumstances had to leave the field, though that party tried their luck in two constituencies of the Jammu Province but the two independent members supported by big landlords were also defeated. The reason for that is that the National Conference has become the popular party by advocating the cause of masses. Our principles are clear and simple. We do not want to deceive anybody because we have already declared it in 1938 that when after winning the confidence and support of the masses the National Conference will assume power, it will take away the land from the absentee landlord and will give it to the real owner, the tiller. All of you have been elected as members of this House on the ticket of the National Conference. It is said that there is no

opposition and this House represents only one party. This is not our fault. Besides, it is not necessary that an opposition should be created. Some matters; will of course, come up before the House which before the House which are likely to generate heat during discussions. It is not necessary to have an opposition. This however, is a separate issue. We have already completed the first part of "Land to the Tiller" and now we have brought the issue of compensation before the House. The country has fully authorized the National conference in this behalf. The election manifesto of the National Conference had made it clear that compensation will be granted. The public fully supported us in this matter and it was in view of this that our nominees were returned in the elections. Keeping in view the above facts some confusion does arise i.e. the question of complained above. In fact, there is not real confusion. Although it was not necessary for us to bring this issue for consideration as the people had already given their opinion in this behalf, still the National Conference entertain no animosity towards the people whose land was distributed among the peasants. As already pointed out be me yesterday we have always been taking an impartial view in deciding all questions. We had not taken this step because of any hatred towards big landlords or we have expropriated them by way of revenge but whatever did, we did it under some principle. It did not appear proper and equitable that one should earn and the other should take the benefit of his labour. The principle should be that a person should be able to reap the benefit of his labour alone. In this way alone can peace be ensured in the world? Is it not a hardship that a peasant should work throughout the year and when the time for reaping the fruits of his labour arrives the agents of the landlords should take away the entire produce of his labour. It is our duty to put an end to this sort of injustice and that is why we have given the land to the peasants. We did this not by reason of any malice towards the Jagirdar and I take this opportunity to state that I consider them as my own flesh and blood in the same way as I consider a destitute peasant as my kith and kin (cheers). To me the honour of a Jagirdar is as dear as that of the peasant because Jagirdar and landlord also constitute the people of the country. They should also ensure the full rights in the country. Hon'ble Mr.

M.A. Beg in his speech has stated some historical facts on the basis of which he has tried to prove that there are some Jagirdar who did not spend anything for acquiring land. The different rule had granted land to them as gifts and they continued to enjoy this benevolence. Most of the people considered land as a safe investment because in their view it was not liable to theft, destruction or any loss, and thus they used to take full advantage of the labour of other. There are instances where the people sold out their property and purchased land. After their expropriation from the lands we have to see whether they have any means of subsistence to enable them to lead an honourable life; their children are our own and we have to see that no injustice is meted out to them. If any family is rendered destitute it will not add to our national honour and that is why we have constituted a committee to investigate the matter so that no person may be involved in any trouble. It is possible that there may be some very needy and deserving cases for whom the Government may have to provide livelihood. The further reason for the setting up of this Committee is that we have to keep into view the principle according to which only such persons can become the owners of land who till it themselves. Many of the Jagirdars, to whom 22 Acres of land have been allotted, do not themselves cultivate and the tillers are still cultivating this area of land. The matter should have been dealt with on one and the same principle. Under these circumstances was there any justification to leave even 22 Acres of land for them? As a matter of principle the Government considered what means of subsistence will be left to them for their land. The Land Reforms Committee had recommended that the Jagirdar should be given only 10 to 12 Acres of Land.

Hon'ble President:- I think the House should now adjourn for lunch . It will meet at 2-30 P.M. again.



AFTER LUNCH

Hon'ble Prime Minister (contd.):— Sir, I explained the reasons which necessitated the appointment of this Committee so as to consider the case of those who were expropriated from their land. They do not comprise that class only which has been referred to by Hon'ble Mr. M.A. Beg in his speech but they include those also who had purchased land considering it as a safe investment and as a means of life long subsistence. Now that the Government have transferred the possession of these lands to the tillers, it is to be seen what measures we could possibly adopt for livelihood of such people. One the expropriation from their land the Government allowed the landlords 22 Acres of land to enable them to make both ends meet. Besides, the Government did not expropriate them from the orchards if they possessed any. Moreover, the pasture lands were also not touched. Although the Government had arranged in such a way as to save the landlords from becoming paupers, yet in spite of this a Committee has been constituted to find out if there is any instance where provisions for livelihood may be necessary. I think the confusion, which had cropped up in the House must have been cleared by this explanation. The question of compensation could not arise. The National Conference, as explained above, has already put forth its viewpoint with regard to this matter that it is not in favour of paying any compensation. And on this very slogan elections were contested and all the nominees of the conference returned. Though the country had confidence in us yet we did not grudge the appointment of a Committee to scrutinize all the facts. On this Committee representation has been given to the people of different interests. This Committee consists of those members as well who have been expropriated from land and these who have been benefited by this Act. It also includes those who are neither peasants more landlords, i. e. this committee represents the point of view of every class of people. After the investigation of the facts a report will be submitted to the House on which the House will take the final decision. In view of this I second the resolution moved by Hon'ble M.A Beg.

Mr. Ghulam Rasool Kar:- Sir, While moving the resolution. Hon'ble Mr. M.A.Beg pointed out in his speech that land was transferred to the tillers for they had neither clothes to put upon nor food to eat. He also said that the landlords had also taken possession of grazing areas as well of 'Khalsa' areas of land but the learned mover did not fully explain this lords who had been in possession of these 'Shamlats deh' which originally belonged to the small land-holders. Dr. Shiv Jee had been in possession one thousand 'Kanals' of 'shamlat deh' of small land-holders at Hajan who continued to derive benefit thereof up till now, Similarly in the year 1946-47 the cultivators of Khar-Pora had agitated against Thakur Kartar Singh complaining that he had unjustifiably expanded the limits of his "Jagir" and the Government of the time had set up a commission under Mr. Mohd. Maqbool Pandit. It has been proved on the basis of the investigation that he had really made encroachment. Like wise the big landlords took over the possession of grazing while the grazing fee used to be paid by the small peasants. It was not lawful to cultivate such areas. The big landlords took up under their possession of land –held by small peasants and in this way got the benefit. Would it not be worthwhile to recover the cost of such lands from these big landlords and disburse it amongst the small peasants. I want the Hon'ble mover to throw light on this point.

Mr. Ghulam Qadir:- Sir, the Hon'ble mover has fully explained the resolution under discussion. In his speech he had laid emphasis on all those matters in view of which the landlords and 'Chakdar' had acquired ownership of land on paper and derived benefit in various forms. On the occasion of Raj Tilak; big Jagir were granted to favourites under Royal Proclamation. In each village 200 Kanals of land were allotted for residential and dwelling purposes.

The speech of Sher-I-Kashmir on the resolution under discussion fully explains the whole matter. The National Government took prompt action with regard to enforcement of Big Landed Estates Abolition Act. During the period the question was as to what compensation be paid to the landlords who have been

expropriated from land and for this purpose a committee is being set up by the constituent Assembly to investigate and consider over their demands. The Committee, proposed by the Hon'ble Mover will investigate as to what amount was spent by the landlords and 'Chakdars' on the land and what benefits they derived there from. Moreover, the committee has also to see which of the 'Chakdar' deserve compensation. After completion of its work the committee will submit its report to this Assembly. With these words I support this resolution. The Hon'ble Mover and Quaid-I-Azam have thrown sufficient light on all the aspects of the committee. It needs no further explanation.

Hon'ble Revenue Minister: Sir, has the Hon'ble member opposed the resolution or supported it?

Maulana Mohd. Sayeed Masudi : He means both.

Hon'ble President: What do you desire? Do you want closure or you support the resolution?

Mr. Ghulam Qadir : I have supported the resolution .

Mr. Ghulam Nabi : Sir, I want to say something on the Hon'ble Mover's resolution. The ideals of the National Conference have long since been explained. We have always been faithful to the principles of the National Conference. The National Conference has set up this Government and it has clearly laid down its policy. Besides the question of compensation Quaid-I-Azam has told in clear terms that this Assembly would ultimately decide this question. if the National Conference gets majority of votes, compensation will not be granted and if the National Conference has got the majority then it is natural that it has cent present support for this. I, therefore, impress the desirability of early solution of this problem. It is perfectly clear to me that the acquisition of land was manipulated by unfair means. They had been granted land by sucking the blood

of the poor tiller and by resorting to repressive methods. I think the committee should also take into consideration the fact that we have held out a promise to the nation to put an end to the unjust and inequitable acts, (Cheers). As for the question of purchased land, I would suggest that this committee should keep in view the helplessness of the peasant. The purchaser derived benefit from these lands ten times more as compared with the niggardly price he had paid therefor to the peasant. We have allowed 182 kanals of land to each (Chakdar) which is more than sufficient for their subsistence. On the other hand there is a small number of tillers possessing more than five to ten kanals of land. The National Conference has thoroughly investigated this matter and I request the House to avoid delay in taking decision in this behalf.

Hon'ble Mirza Mohd. Afzal Beg : Hon'ble President, may I take it that Mr. Ghulam Nabi has opposed the resolution?

Hon'ble President: He has supported it.

Mr. Abdul Khaliq Bhat : Hon'ble President I do not want to speak anything against this resolution but would, however, like to point out that the period of three months fixed for the submission of the report by the committee is not sound as it is obvious that Chakdars had acquired land adopting sycophant tactics. As is evident from the speeches of the Hon'ble members compensation, will have to be paid to those only who have not means of subsistence. In this connection, I would submit that there is no landlord of Chakdar who has not sufficient money and who can be safely called poor oppressed and deserving of compensation. Even at present they have the right to possess 182 kanals of land in each case. But I do not think it advisable to allow the retention of land by the absentee landlords and by those who do not till it themselves. Quid-I-Azam has remarked that there are persons who had invested all their capital in land. The committee will have to find out the source wherefrom they had acquired this capital. They had lakhs of rupees extracted in the shape of bribe. They had purchased land by

way of safe investment. I want to give you an example of 'Chakdar' of my 'Illaqā' who extracted lakhs of rupees from the poor masses and purchased land prior to this, a peasant could not get even a single maize crop from the field but today, due to the efforts of the National Conference and Quid-I-Azam the peasant is conscious of the fact that he is the master of the fruit of his labour. I do not oppose the motion but I request that the committee should submit its report at once and not within the proposed period of three months so that the peasant may not entertain any suspicious towards us and think that nothing is being done in this behalf (Cheers).

Moulvi Mohd. Anwar Shah Masudi : Sir, the point at issue is that a committee be set up to consider the question of compensation for land given to the tillers after the expropriation of the landlords. So far as its constitution and aims and objects are concerned, these have been explained to the House. The Hon'ble mover has thoroughly explained to the House the need of such a committee. I am also of the pinion that setting up of such a committee is very essential. This committee has to see if the 'Jagirdars and Chakdars' be compensated. The Hon'ble members of the House have expressed their views with regard to the compensation demanded by the big landlords. It is, however, being apprehended that the committee while acting according to the terms of reference, may not suggest the payment of compensation to Chakdars and Jagirdars in regard to expropriated lands. It is true that no Chakdars and landlords deserve compensation of any kind. This fact should be brought to the notice of the committee. The National conference has held out promises to the people on the basis of which it has won their confidence. The loss of this confidence should be avoided. Some of the Hon'ble members have said that the committee should submit its report before the schedule time of three months but I think a mature consideration is essential to do a thing in the right manner (cheers). Three months, period for the submission of the report is not much. And we should expect these committee valuable suggestions on the questions of compensation

which would add to that confidence the National Conference has gained from the common people.

Mr. Sheikh Mohd. Akbar:- Sir, while supporting this useful resolution regarding compensation moved by the learned mover, I would say that today this issue has become so important that the majority of the people is keenly watching it result and they are eager to know the future of the peasant which is to be decided in the Assembly. I would, therefore, request the Hon'ble members of the committee not to over look the trickery of Jagirdar and landlords in acquiring land, if, God forbid, the idea of compensating them strikes their mind. The Jagirdars had managed the entry in sale deed of consideration two times or three times more than what they had actually paid at the time of purchase of the land. For example, if a person paid a hundred rupees as consideration, he got Rs. 300 entered in the sale deed. Our primary object has been not to give any compensation to landlords. "Land to the Tiller" has been the policy of the National Conference, which we have all along been emphasizing: -

"God has bestowed greatness upon the nation. That wrote its destiny by its own hand. He has to do nothing with the nation whose peasant cultivated for other".

The nation that usurped and despotically acquired land has no concern even with God. With these words I support this excellent proposal.

Mr. Chuni Lal Kotwal:- Sir, lakhs of people have set their eyes upon the resolution regarding the appointment of a committee which is before the House. The Hon'ble members of the House have repeatedly said in their speeches that full justice should be meted out to the poor peasant. That the land which the peasant has been cultivating with the sweat of his brow will be transferred to him without compensation was the promise held out to lakhs of people during the course of elections. This committee should honour their feelings for they are uneducated and have been deprived of their land by the despotic system of

Government thus usurping their rights. This committee has to see that the promises made to the people by the members of the House are fulfilled. I request the committee that it would allow land to the tiller without any compensation. I support the move with this explanation and desire the committee to give this resolution a practical shape and complete the task forth with.

Mr. Abdul Gani Trali : Sir, the Hon'ble mover and Quid-I-Azam have elucidated this motion and other Hon'ble Members of the House have also spoken on it. While supporting this move, I would point out that in our Programme "New Kashmir" it has been included in the Chapter "Right to Peasants" that after expropriation of Chakdars and Jagirdars, land will be distributed without compensation amongst tillers. We have assembled here to give practical shape to "Naya Kashmir". We have to fulfill the promises made in the peasants. We will not consider the question of compensation to landlords, as it is not laid down in Naya Kashmir. Hence, if we lead ourselves astray it would mean contravention of our Programme. There are also high-ranking officials as well as pensioners of the Government and traders who hold big land and gardens. They are making much out of these holdings. With regard to those who had purchased land in exchange of money. I may point out that such people possess surplus capital. Had not a person possessed so much money he would not have been able to purchase land. When such people saw that the government has recognized the right of ownership they purchased land from poor tillers on nominal consideration through mortgage of sale deed; for they were unconscious illiterate and poor they were easily cheated by the moneyed people and sold their land on cheap rates mortgaged it due to poverty. Such moneyed people should not be granted compensation because the helpless peasants are not in easy circumstances as yet. They will rightly be benefited by these reforms say after 15 to 20 years. If today we ask them to pay compensation to the landlords, they are not in a position to do so. And if the Government compensates them, it will be a burden on the Government treasury. Keeping this in view, I recommend that no compensation be granted.

Mr. Abdul Gani Goni : Sir, the Hon'ble mover, Mr. M.A. Beg. While throwing light on his resolution, has explained how the Jagirdars and Chakdars came into existence. In the light of the out look of the National Conference Sher-I-Kashir also elucidated this question. So far as the question of compensation is concerned we have repeatedly told the people that it is we who have to decide this issue. But I think we have ignored particular class of landowners whose land was forcibly taken in possession by big landlords in collusion with the Revenue Officers. For example, the Raja of Chenani with the connivance of the Revenue Officers deprived small land owners of their land thus expanding his Jagir. We have expressed to people that land, which has been usurpingly taken in possession, will be retransferred to its owners. I would request the Hon'ble mover that the committee should also take this issue into consideration. With these words I support the resolution.

Sardar Kulbir Singh. : Sir, while supporting this motion I feel the necessity of appointment of the committee mainly because since the promulgation of the Big Landed Estates Abolition Act, Jagirdars and Chakdars have off and on been demanding compensation for land. All these facts have to be considered collectively, and carrying forward the Programme of the National Conference the appointment of such a committee is essential. This committee should investigate into the fact in an impartial manner and according submit its report. Economic freedom is as important as political freedom. It should be kept in view that the systems of our neighbouring countries should not be taken into consideration lest they should create obstacles in the path of our progress. We have to give thoughtful consideration to the conditions prevailing in our country collectively and not as individual cases. We have to follow the path laid down by "Naya Kashmir". It is a sacred duty to better the lot of the poor peasants who have been leading the life of serfs for centuries past. We have not to look to the Jagirdars interests only but to set the country on the path of progress is laid down in "Naya Kashmir". I support this resolution.

Sayeed Allau-ud-Din Gilani : I support Hon'ble mover's resolution. On principle, compensation should be given for something acquired by dint of one's labour. But Jagirdars and Chakdars always took undue advantage of the destitution of small peasants and thus took their land in their own possession. They have been granted land also for upholding legal methods of the irresponsible Government. In acquiring land they had adopted foul unfair means :

"Chun graz amad hunar poshidah shud
Sad hajab az tdil basue didah shud:
Chun dehal qazi bodal rushwah qarar,
Ke shnasead zalam az muzlam zar."

The oppressed and helpless peasant has been leading the life of a destitute. The big landlords have got the land by oppressive and deceitful means. They always let loose repression over the poor peasant so that he could not stand against them. They should know that they do not deserve any compensation. The small peasant is unable to compensate the land as his condition is in described. If such a burden is thrown on him he will be ruined. Grant of compensation from the Government Treasury would amount to rewarding the oppressor. Hence no compensation to the landlords. The tyrants must learn a lesson and the sense of humanism should grow in the minds of the people. With this explanation support this resolution.

Hakim Habib Ullah:- Sir, much has been said about this compensation issue and now it seems unnecessary to refer this question to a committee. The question is whether compensation should be given to the landlords or not. It is a well-known fact that the landlords have sucked the blood of the peasants and have squeezed their money and this has continued for the last so many centuries. Not only this, they have rather taken possession of their properties and left them destitute. In spite of all this, the Hon'ble Prime Minister has stated injustice, as we must not neglect these landlords. We are not against class or

any community though these landlords have been nuisance for both the government and the peasants but because of the broad mindedness of Sher-I-Kashmir's Government they will not be neglected. We do not want to take any revenge against them if there are any such cases where it is found that a landlord whose land has been distributed among the tillers whereby the landlords has been left in misery and has no source to keep his heart and soul together such cases will be looked into. Secondly, the present motion is in regard to forming of a committee to look into the question of giving compensation or otherwise to the landlords but speeches for and against giving compensation have been made in the House; I think there is some confusion. I would request the House that stage for discussing the merits and demerits of the case will come later and the present move is only in regard to the appointment of the committee.

Hon'ble President: It is a fact that the present resolution is confined to the formation of a committee which will look into the question of payments of compensation or other wise to the landlords but the speeches made by various Hon'ble members are relevant to the whole question. Keeping this in view the Hon'ble member may resume his speech.

Hakim Habib Ullah : Well Sir, I may submit that as stated by me already despite the faults of the landlords they will not be neglected. They have, as already submitted by me done lot of injustice to the peasants and taken into consideration as laid down in 'New Kashmir' we want all to be prosperous.

Mr. Bhagat Ram Sharma : Sir, the speeches made so far indicate the conflict in the minds of the Hon'ble members as to why the question of compensation has risen at all. It is a fact that Jagirdars have sucked the blood of peasants and have acquired lands illegally and the fact of the matter is that the land has been taken away from the peasants by force. Now after the lapse of such a long time we have begun to re transfer the land; why should then any idea of compensation arise? It is not only the Chakdar and the Jagirdar who suck the blood of a poor

man but there are many others who do so. A man by sucking the blood of a poor man purchased 2 Gumaoon of land in a village and subsequently usurped the earnings of a peasant after six months. Another class of usurpers is who sucks the blood of people by constructing buildings in towns instead of purchasing agricultural land. For such usurpers too, a committee should be formed. (Cheers).

Hon'ble Mirza Mohd. Afzal Beg:- A committee will be formed for this purpose also.

Mr. Bhagat Ram Sharma : Both these blood-sucking capitalists should be brought on one and the same level. For this purpose too a committee should be constituted early. It is the fundamental right of the people. If justice is meted out alike there will not be any heartburning. At this stage the formation of a committee is necessary and I support the resolution and pray that the committee honouring the sense and sentiments of the House, would submit its report forthwith.

Mr. Mir Qasim : Sir, the light thrown on the motion by the Hon'ble Members and the mover is enough. I think it necessary to explain two points here. It is a pleasure that the Hon'ble Members have tried to express the majority opinion of the House. I think every Member will try to be the well wisher of the nation and the proof for that is their presence in this House. The question which the Hon'ble Member has put forth full consideration is whether compensation be granted or not; Quaid-I-Azam too, while elucidating the law, has said that this issue will be considered as a Law when the desire of the nation will be known through the House. It is our moral duty that we should as people's representatives and servants of the nation. Fulfill the promises held out to the people. To consider this issue therefore, a committee is being formed. The mover has moved this resolution because such a provision exists in the Big Landed Estates Abolition Acts. There can be no other particular reason for this. I therefore request the

members of the committee that they should bring the Big Landed Estates Abolition Act under consideration. This committee is bound to honour the expressed desires of the House and if in its report efforts are made to injure the sentiments of the people even in a minor form the House shall have right to discard it. (Cheers). I cannot restrain myself from saying that while shaping it into Law if efforts are made to maintain the old privileges that cannot conduce to the country's prosperity and cannot translate into action the wishes of Quaid-I-Azam. It is not possible that Jagirdar and a peasant to co-exist under the name system because there are fundamental differences between the two systems. A Jagirdar cannot live on the privileges of feudalism. When the society declares the basic rights for the existence of an individual, surely a Jagirdar can also live programme as an individual. We do not have any grudge against the Jagirdar as an individual but we have to end that system in which possibilities of privileges are created. The social and economic facilities of the new system are alike for every individual and every individual of the Society deserves this honour without any distinction of caste or creed. Society is the mirror of the rights of the individuals and if it does not recognize the basic principles of the security of individual's rights, the Programme of 'New Kashmir' which would finally exposes the hollowness of these contradictions and thus end them. It is known the world over that imperialistic and irresponsible system of Government used to be regarded as progressive in the distant past but it now certainly arrests the progress of a country, I want to make it clear to the Hon'ble members of the House that whatever proposal of resolution they place before the House, the same would become final after due deliberations as the House is competent to decide every issue. As regards compensation, the mover has explained in clear terms that if any objection is raised by Jagirdar, he would not be condemned; but such objection would be placed before the Committee to keep in view the decaying capitalism and place before the House its final opinion. With these words I support the motion.

***Master Ghulam Ahmed:** Sir, I want to say something for the motion. It has been a distinctive feature of the National Conference under the leadership of Quid-I-Azam that the rights of every individual living in the State should be fully safeguarded. Therefore, the motion put forth by the learned mover for the investigation of this issue is the guarantee that the Committee will examine carefully the view points of both the exploiting elements and the oppressed and exploited people. According to an English poet it is better to sacrifice thousands of princes to keep alive a peasant. It seems somehow correct because God and his creation is well proud of the existence of a poor peasant. Besides, this House has to consider seriously the promises made to the people for which [purpose this Committee can be helpful. Regarding the elucidation of this Motion, Hon'ble Members have thrown sufficient light, so I, without further elucidation support the concerned mover.

***Maulana Mohd. Sayeed Masudi:** Sir, in my opinion the discussion may be closed as the resolution has been discussed at length and needs no more deliberation.

Hon'ble President: Hon'ble member has suggested the closure of the discussion as the resolution has been thoroughly discussed. The suggestion is before you. Those who are in favour of the closure of this discussion should say "Aye" and those who are against it should say "No".

Members of House (Unanimously) : "Aye"

Note: - Closure motion was adopted.

Hon'ble President: Now the Hon'ble Mover shall reply to the debate.

Hon'ble M.A.Beg : Sir, every aspect of this issue has been discussed. I want to address Hon'ble members a little more on a few points. As also stated by some

of the Hon'ble members the landlords acquired land illegally in some cases through bribery and by increasing consideration two or three time and by other means. It is, therefore, that these people do not deserve any compensation. The committee alone can decide whether any compensation should be granted or not. Secondly, it has been pointed out that the period of three months prescribed for the deliberations of the committee is too long. The period has been fixed for the reason that the final decision on the issue has to be taken by the Constituent Assembly itself which will meet not before the interval of three months and this long duration cannot therefore affect the decision. We have laid down in the programme of 'Naya Kashmir' that Jagirdars shall be expropriated without any compensation and the land will be transferred to the tiller. To end the social subjugation of the poor peasant we shall have to end the paper ownership of the Chakdar and the Capitalists. As regards the question of compensation, page No. 47 of 'New Kashmir' is salient. The scholarly speeches made by the Hon'ble members in this behalf have fully supported the resolution. Under these circumstances, I request you to kindly take the vote of the House on my resolution.

Note : - The resolution was put to the House and adopted unanimously.

Hon'ble President: Today's business being over, the House is adjourned till 11 o'clock, tomorrow.

(Wednesday the 7th November, 1951)

The Constituent Assembly met in the Constituent Assembly Chamber, Srinagar, at eleven of the clock.

Mr. President (Mr. G.M.Sadiq, B.A.LLB) in the Chair.

**APPOINTMENT OF AN ADVISORY COMMITTEE REGARDING
FUNDAMENTAL RIGHTS AND CITIZENSHIP.**

Hon'ble President (Mr. G.M.Sadiq) Hon'ble Mr. M.A.Beg will move the resolution standing against his name.

Hon'ble M.A.Beg (Revenue Minister) : Sir, I beg to move : -
"This Assembly resolves:

1. That an Advisory Committee regarding Fundamental Rights and citizenship be appointed consisting of : -
 - (a) the mover as Chairman, and
 - (b) Ten other members noted below: -
 1. Mr. G.M.Hamdani,
 2. Mr. Chuni Lal,
 3. Mr. Abdul Gani Goni,
 4. Mrs. Maini,
 5. Mr. Mubarak Shah,
 6. Sardar Kulbir Singh,
 7. Mr. Mansukh Rai,
 8. Mr. Kashuk Baqula,
 9. Mr. Mir Qasim and
 10. Mr. Assad Ullah Mir.
2. That the Committee shall make recommendations as regards the qualifications necessary for the State citizenship and the Fundamental Rights of the citizens of the State. In making recommendations, the committee shall keep in view the definition of the "State Subject" as contained in Notification No. 1-L/84 dated the 20th April 1927.
3. That the committee may invite any other person to take part in its deliberations.
4. That the quorum for the Committee shall be one third of the total number of members for the time being on the committee.
5. That the Committee shall submit its report to the Assembly within four months from this date.

6. That Mr. Mubarak Shah will function as the Secretary of the Committee.

Mr. President : Before I speak on the merits of the Resolution, I beg to move an amendment with regard to the personnel of the Committee of which I have given notice this morning. In view of the short time at my disposal and in view of requests which came from certain quarters and which could be easily accommodated I am sorry I could not submit my notice. It is, therefore, requested that my notice may be admitted. I propose that in clause I, sub-clause (b) instead of the names at items Nos. 9 and 10, the names of Kh. Abdul Gani Trali and Mr. Habibullah of Sopore be substituted.

Hon'ble President:- No notice to this effect was received in this office in time.

Hon'ble M.A.Beg : Sir, Permission may be given now.

Hon'ble President : I am afraid, I cannot give permission at this time

Hon'ble Mr. M.A.Beg : Before the draft of this resolution is taken up by this Assembly, it is necessary for this Assembly to make a detailed enquiry on different subjects which concern its very basics principles : These subjects involve two questions viz. the Fundamental Rights and the Citizenship Rights which stand in need of a thorough investigation. There are different rules in different countries for granting civic rights to citizen of a country. In some country continuous residence for a specific for period entitles an individual to the civic rights. For instance if a person resides somewhere for twenty five, twenty or ten years the law of the land treats him as a citizen of that country and this renders him eligible to the same political, social, economic and other rights as possessed by other citizens of that country. In some countries the principle of birth is current and the civic right of the country is possessed only by such people as are born within the country. Somewhere residence and birth both form the conditions precedent to the grant of civic right.

Now the question arises as to who is called a citizen and what rights citizen processes? A citizen of a country can take part in its economic, social and political activities and also in all matters that are calculated to keep up or change its destiny. What rights should a citizen of our country have in the new set up is one of the many important questions before this Assembly for the solution of which it is intended to constitute this committee. For becoming a citizen of the Jammu and Kashmir State a specific date was fixed twenty-four years back under the Law 1-1/48 issued on 20th April, 1927. This law was given the importance of a notification and under it the limit of S. Year 1942 was prescribed i.e. those who had been residing in the state on or before that date were granted the Status of First Class State Subject. For the second-class residence and immovable property were prescribed as necessary conditions and for the third class the condition of ten years continuous residence was prescribed. This notification formed the basis for the definition of citizenship.

It would be irrelevant to discuss as to what benefit of harm resulted from this definition. For the preservation of a country's rights whether social, economic or political it is necessary to define citizenship. The Dominion Constitution of India also embodies the definition of a citizen to show who is a citizen of India. They instituted a detailed enquiry in the matter and after sufficient consideration decided this important question. Now as the State of Kashmir is acceding to the Dominion Centre and has to find the solution for various pressing problems, we have to see how the local citizenship and the Indian Citizenship will come up before the committee and on the solution of which it has to bestow its thoughtful consideration. This committee will have to examine the definition citizenship is an international and complicated question and needs detailed investigation. This committee will have to examine the definition of citizenship prescribed in the U.S.A., Britain, Russia and china and think over it. This is an international and complicated question and needs detailed investigation. This committee has to frame laws after careful consideration and in framing the constitution it should not be swayed by any narrow mindedness or prejudice. As remarked by the Quaid-I-Azam yesterday that in framing the constitution of our country we should not

entertain any kind of malice or jealousy but we have to scrutinize the constitutions and the laws of the world and keep in view all that is good in them. The second thing on which the committee has to deliberate and present its report in this Assembly relates to fundamental rights. What are the fundamental rights and what provisions are necessary to be made in the constitution to preserve them work has to be accomplished by this committee in framing the constitution. Man is born free and possesses the birth right of speech. He should have the right to move from one place to another according to his will, earn his bread by adopting an occupation of his liking. He has the full right to form associations. The highly intellectual people of the most civilized countries of the world have given much thought to this question and also written on it. But this matter is not an easy one. Every body has the unfettered birth right of freedom of conscience speech, association and occupation. But it is necessary that those rights are exercised in such a way as would in no way clash with the rights of other people. Much has been thought and also written on this. This is not so easy as we may imagine by merely saying that man is free and born free and therefore he possesses the right of freedom of speech, of writing, of holding property, of free assemblage, of religious belief and of association. Although man possesses all these rights from his birth yet restrictions have been imposed on them at some places and somewhere these restrictions are legitimate. For instance you like the proprietary right. Ordinarily a citizen has the right to create property and hold it. In Kashmir we took exception to this proprietary right. For instance a Jagirdar who is in possession of Lakhs of kanals of land snatches a way under cover of this proprietary right even the small piece of land from the other poor man holding ten or fifteen kanals of land. We have also to guard against the misuse of this slogan. We objected to this right in the interest of the growth of society and the economic progress of the country and imposed restrictions on it to guard against the ruination of these poor people by the very big Industrialists and the Capitalists. Similarly, let us take the freedom of conscience. Everybody should have complete right in this connection and here we are engaged in a Jahad for securing this right instead of suppressing it. This time an attack is being directed

against the freedom of conscience in Pakistan and the administration of that country is being carried on at present on theocratic principles, thereby, a restriction has been placed on the freedom of conscience of non-muslims because the acts of the administrators necessarily affected the inhabitants of the country – the effect being indirect or unconscious. We have seen that the class, which governed us for centuries-, affected our dress, our language, our civilization and us. We take it as a blow to our freedom of conscience. We shall vigilantly guard these rights for the growth of our society and shall not permit any interference with them. We shall not deprive the non-Muslim in our country of his freedom of conscience merely because of his being a non-Muslim but it shall be the foremost duty of a Muslim here that he will respect the freedom of conscience of a non-Muslim in the same manner as he would respects his own. This very principle that the citizen of this country shall have the freedom of conscience shall be the very basis of our constitution. The Committee has to enquire into all the difficulties and after thoughtful consideration submit its considered opinion to the House so that the Hon'ble Members of the House might at the time of framing the constitution, give such weight as it deserves. You know that the difficulties were present in this would from the very beginning and much has been written on them. But this does not mean that when the question of fundamental rights is taken up for consideration by us we should copy different countries with our eyes shut. New conditions emerge with change of times. Therefore keeping in view all these conditions we have to consider the fundamental rights. The most important thing about Kashmir which is partly fortunate and partly otherwise is that it is situated at a place where five big powers meet, Russia meets on one side and China on the other. Afghanistan is quite near and Pakistan contiguous and lastly the great Dominion of India to which we have acceded. Our fundamental rights should, therefore, be framed in such a way that their growth is not hampered. In spite of this, we have to take decision on our new principles with due deference to the neighbouring countries and also keeping in view the matters including the possibilities of our growth, in respect of which we have acceded to the Central Dominion. Besides, as has been stressed by the Quid-I-Azam in his policy

speech that leaving aside the matters on which we have acceded to the India Dominion we have also to keep in view the cultural, social and political progress of the forty lakhs people of this State. We wish that our progress in all directions should be such as not only India, and Pakistan but the whole world may feel proud of it (cheers). This is already a settled fact that the National Conference wants to base the constitution on secularism and socialism where there may be no exploitation of any kind and no possibility of one section usurping the rights of the other. The principal of self-determination which we have accepted several years back at Sopore will form the basis of our Constitution so that every section of the population may have full opportunity for growth and development. With these few words I commend my resolution to the House, which I believe will accord its full support.

Kh. Ghulam Mohi-ud-Din Hamdani: Hon'ble President, I support the motion introduced in the House at this time by Mr.Beg. The learned mover has stated the positive side in the House while I shall express myself on the negative side of it to enable the House to appreciate the importance of the functions and duties assigned to this Committee. Sir, the Committee has to make its recommendations as to what should be Citizenship Rights of an individual in the State and what status should one possess to entitle him to be treated as a citizen of the State; what should be his political, social rights? sir, previously no news paper existed in this State of Jammu and Kashmir and everybody's mouth was gagged. During the days of personal rule, freedom of speech was not tolerated. Let alone the political and social freedom as well the religious freedom was restricted and it was on this very ground that sir Albion Bannerji had remarked that the people of State were like dump driven cattle. Today after twenty-five years struggle, the people have sent their representatives to this House. This House has to fulfill the dream of public. This Committee will have to see that one section may not dominate the other as previously and also that no section usurps the rights of the other. This Committee shall have to guarantee to the State Press

complete freedom of expression of opinion. With these words I support the Hon'ble mover's motion.

Mr. Habibullah: Sir, before I want to say something about the resolution moved by Hon'ble M.A.Beg I want to throw some light on the basic principles and fundamental rights of the constitution that we are going to frame. It is a great pleasure that we have assembled here in order to frame the construction of the country according to the will and wishes of the people. Democratic Government means that the Government must be for the people, of the people and by the people. We want that every man of our country should prosper and have a brilliant future. We want each man's rights, basic rights, economic rights, social rights, political rights and other rights whatever they must be preserved and must be taken into consideration. I, can also give an example that can be quoted regarding the basic principles and liberty of the constitution i.e. "render unto Caesar the things that are Caesar's and unto God the things that are God's"

Hon'ble Revenue Minister: But Caesar wanted all these.

Mr. Habibullah : We want that every man of this country must be given his fullest right and must lead a peaceful life; Rights can be analyzed in many ways. Basic Rights and freedom of space, freedom of platform, freedom of press and freedom of everything can be said to be the fundamental and basic rights of men. Any power or Government who tries to keep people away from those liberties, you will see, that Government will not last long. You will see only that Government will prosper which will give these fundamental rights to its people. On the contrary when the rights of the people are not exercised according to their will and wishes the future of this very uncertain and dark. The people should be cause everything has been made clear by Hon'ble M. A. Beg it will be sufficient to say here that every Government which wants to gain good reputation must always have the consideration that the people living under it must have equal rights, and their rights must be preserved whole heartedly. If they are kept away from these

rights the consequence will be bitter and against that Government. Liberties are of two kinds. You can say that the raiders are enjoying the liberties. They also enjoy a kind of liberty. But that liberty cannot compete the one, which is being enjoyed by the people under the Government acting according to the democratic principles. The raiders, liberty are also a kind of liberty but we cannot call it liberty in the real sense. So we do not want that liberty. We so not want that any body's rights should be suppressed in any way. I have given you an example but the liberty of raiders, which is condemned by the people living in the Democratic world.

S. Harbans Singh : Excepting Pakistan

Mr. Habibullah : But I do not want to exaggerate the things. One explanation is that the raiders came here and had guns with them in order to defend themselves. This was also a sort of liberty but they misused it and exploited everybody whether he was a Hindu, Sikh or a Muslim. By liberty they mean "Kill whom you can; take what you can" But this must not be taken into consideration. We should take real meaning of right of freedom. When we will understand the full meaning of fundamental rights our country will shine and prosper. With these words I would request that the committee should take into consideration the fundamental and basic principles of freedom while framing the constitution. By doing so our country shall become a symbol of justice, equality, fraternity and brotherhood.

Mr. Mir Qasim : Mr. President. In deference to wishes of the respectable mover I would like to state a few words about his intentions. At the time the mover presented his Resolution, his ideas had not turned into a resolute but were shaky. He intended to substitute some other name for mine, which appears at item 9. At the time when he at first introduced his motion he had intended to give further consideration to the matter. For this reason he can have full liberty to do this. I feel that before adding any one of member of this House with a responsibility, it is necessary for the nation to take into consideration his importance as well as his capability to shoulder it. As I was selected only

yesterday as a member for an important committee I wish to withdraw my name from the committee, which may be allowed.

Mr. D.P. Dhar : Sir, the Hon'ble Member's intention is not clear.

Hon'ble President : Please wait.

Mr. Mir Qasim : Sir, the sentence has not yet been completed, how can the conclusion be assumed since an important work was entrusted to me yesterday I am afraid with that in hand. I shall perhaps not be able to pay full attention to this job. I therefore, in deference to the wishes of the mover and also finding myself not available, request that my name may not be included in this committee. In supporting the motion I would, however, like to state as also done by my other learned friends that the basic principal is that for the citizenship rights in any country, the society reflects the rights of every individual and, therefore, the society is also the guarantor of those rights. What should be the civic rights in a society? Different views are held on this in the world. What should be the rights of an individual in a society, the society itself advances a particular view on this. Had the definition of these rights been quite simple in the world, the rights of self-determination and of citizenship would have been uniform. But separate definitions of freedom of different individuals in different societies and of the society itself have been laid down. If the leaves of the past history are turned over, three different views would be revealed. At one time a big Jagirdar could collect the rent by the open employment of reactionary elements. At that time this was also regarded as a citizenship right. At another time it was penal for the public to raise its voice against the Government whether established by virtue of a sale deed or in consequence of aggressive attack or forced possession. But along with the progress of the times, this definition of the civic freedom also under went a change and that society came to be regarded as more advanced whose constitution upheld the freedom of its individual and the organization guaranteed the rights after the means had been devised for safeguarding them. As was just now stated by the mover the civic freedom connotes the fundamental rights of freedom of movement, writing and speech. The committee shall have to take them into consideration at the time of completing its report. A man cannot be

allowed the latitude of a free lancer in matters relating to the freedom of the press so that he may have the liberty to indulge in writing whatever comes to his brain at any time. No, the use of this freedom should be permitted with special limitations so that he may have constantly in view the welfare of the society. This freedom should be able, in particular to guard the right of the public to live, side by side with the maintenance of the peace. The Quaid-I-Azam and the mover have also urged that the Committee while considering the Resolution should give top most priority to the question of the betterment of the society so that the fundamental rights of the individual are safeguarded. In the year 1659 about three centuries back from today, an English poet said that the law defines the right but it is a task of utmost importance to secure the rights by solid means. It is most urgent to provide opportunities for this.

When the law defines civic rights the outlook of a very great poet becomes clear on what should be the definition of the right and the provision for safeguards

The law locks up the man or women who steals the goose from the common. But leaves that greatest villain loose who steals the common from the goose.

While defining freedom of law, the word has no meaning if it merely remains on paper but you have to think of enforcing it practically. It has to be impressed upon the masses as to what rights they have been granted and whether or not the society has devised means to protect them. In granting freedom to the public in writing, speech association or other matters the intention is that it should be used for the progress and well being of the society as otherwise the freedom will have no more value than a scrap of a paper. At any rate the right will be preserved if the society guarantees the safeguards. After this explanation and withdrawing my name from the membership of this committee, I support this motion.

Mr. Assad ullah:- Hon'ble President; The respectable mover while introducing the motion has expressed the wish that my name that appears last of all on this committee should be deleted.

In this connection I have to submit for consideration of the Hon'ble President that since I have previously been selected as member for one or two committees, I request with due deference to the wishes of the mover Hon'ble Mr. Beg that my name may be omitted from this committee. In support of the motion I am further stating a few words.

Hon'ble President : Before the Hon'ble mover speaks anything in support of the withdrawal of the name, I do not permit this amendment as the Hon'ble mover had given no previous notice of the amendment regarding the deletion or addition of the two members. But should he, however, like to add two more members, he could do so even now because the motion embodies: -

“That the Committee may invite any person to take part in the deliberations”

I think there is no necessity for an amendment at this stage.

Hon'ble S.M. Abdullah (Prime Minister) : Sir, every body has a right to withdraw his name from the committee.

Hon'ble President: so far as the learned members are concerned Hon'ble Mir Qasim has stated that he supported the resolution with the amendment. If these words are treated as an amendment, I do not permit the amendment.

Mr. Mir Qasim : Sir, I withdraw my name from the committee.

Mr. Assad Ullah : I also withdraw my name.

Note : Permission to withdraw the names of Messrs Mir Qasim and Assad Ullah Mir from the proposed Committee was granted.

Hon'ble President : (Addressing Kh. Assad Ullah Mir) Do you wish to speak on the motion.

Mr. Assad Ullah : Yes Sir, this motion concerned the fundamental rights of man. Rousseau who was the spiritual father of the French Revolution had said :

“Man is born free, but everywhere we find him in chains,
the chains are not of political tyrants but of social obligations”

It is said that man is by very nature born free. Freedom of writing and speech are his birthrights and he has the freedom to take to any calling which he would take to. If a man would loaf about or take to any calling which is not in keeping with the liking of the society or its organization, even then he can say that he is free to take to any occupation of his liking. Nobody can obstruct his freedom. The matter of the fact is that the rights which have been given to a man by nature are moulded in the society. The freedom is allowed only to the extent where it does not prove harmful to the Society.

**At another place Rousseau says
"will and not force is the basis of the State".**

It is only the public opinion which is the basis of responsible Government. You cannot thrust anything on any man. Naturally every man has got some personal aspirations which are styled as personal will. He also entertains certain group wills which concern his family and neighbours and along with these he has also certain aspirations concerning the society which are styled as a general will if all these personal group and general will are systematized into a collective shape, they would form the basis of any democratic Government. This would constitute an organization where the voice of the oppressed could not be suppressed and either the voice of such a man could prove harmful to the public. Therefore, in any organization which would be set up in this manner, personal freedom would be guaranteed in every respect leading to the growth of the public opinion. This results inevitably in the freedom for both the individuals and the society. On the other hand if a State is established where life and property of either an individual or a class could not be safe, such a state will not be a state of angels but a state of brutes, such a state cannot last but will fall at once. I would like to sound a note of advice to those gentlemen whose names have been proposed for this Committee that while keeping in view the right of association or other birth rights they should see that the public opinion and the class are not opposed to each other. With these words I support this motion.

***Mr. Krishan Dev Sethi:** the motion which has been put forth sufficiently explains the duties of this Committee. So far as it concerns the matter that every man should have the freedom of writing, speech adopting any occupation of his choice it cannot be possible for one to take to a calling of his liking unless means are devised to this end. For instance a man given the right to adopt an occupation according to his will but in the absence of any prospect of earning his livelihood thereby how can he be enabled to fulfill his desire. He has first to be provided a livelihood and then can adopt a calling of his liking. What would the freedom of writing and speech avail unless a man has received education. Therefore, I would commend to the consideration of the Hon'ble Members of the Committee that while keeping in view the problem relating to the right of writing speech and the other human rights they should think as to what should be the means which would enable a man to adopt an occupation according to his wishes. It is an essential right for a man to be provided with livelihood, means of education and opportunities to benefit from the medical service. This Committee should deliberate upon all such problems as are calculated to benefit a man. With these words I support the constitution of the committee.

Mr. Ghulam Nabi Wani : Hon'ble President. While supporting the Hon'ble mover I would like to state that he has thrown sufficient light on the motion. The deeper the consideration, which this august Assembly may bestow on this motion the more advantageous, it will prove for the public. For the consideration of the civic rights it is necessary to keep under consideration the backwardness of the public. For the consideration of the civic rights it is necessary to keep under consideration the backwardness of the public. With these brief words I support the motion of the Hon'ble mover.

Sardar Harband Singh : The motion of the mover has been debated upon for a long time. I would like to submit briefly that some sentiment has been imported into the discussion in the House. I believe that the fundamental rights and the

civic obligations cannot be divorced from each other. No Government can ignore the fundamental principles adopted by any other Government. If anybody likes to take poison I think no Government would allow him to do so. Several such questions have been decided by the High Courts in India. The Committee should consider all the interpretations given on the subject of the freedom of writing and speech. They should try to understand what freedom means in actual sense of the term. So far as the definition of freedom is concerned, the real object of the definition as it strikes me is that the freedom of any one should not come into conflict with that of any one else. Similarly the freedom of writing, speech or profession should not interfere with that of any other person. The Russian constitution lays down: -

‘Every person in the country is guaranteed the right to work’
but the Indian Constitution lays down : -
‘Efforts would be made to give work to all citizens in the State’

If we embody a guarantee in our constitution that every person would be provided with work and if the work is not provided I think this guarantee would lead to complications. This is worth consideration and the committee shall have to see at the time of writing the report that every citizen is assured the right of freedom of speech, occupation and religion. I would also request the committee that while framing their own constitution they should take into consideration the current provisions on fundamental rights in the constitutions of the leading countries and the interpretations of different High Courts so that the political edifice of our country may stand on solid foundations and the people of this country may become prosperous. With these words I support the Hon’ble mover’s motion.

Mr. Bhagat Ram Sharma: Hon’ble President, today a very important committee on whose working depends the existence of the citizen of this country is being constituted. The committee has to decide about fundamental rights of human beings. A man is nothing without rights and the first of them is the right to live and for this existence three or more rights are required which can be called

fundamental rights. The right to food comes first, keep a man without food and shower on him all other kinds of freedoms; they will all be in vain. That man will run away from all these freedoms and run after food. Before a decision is taken regarding the rights the committee should consider it as of top-most importance that every body gets food. I do not say that food should be doled out to man food for eating; cloths for wearing and a hut for residence are essential for every man. I do not think that food should be given, as alms but every man should have so much right as to be able to earn his livelihood by work. In a society where this human right is denied even if there be freedom of writing and speech, I think all that would be meaningless. I would request the Hon'ble Members of this committee that they should devote there attention to this and grant every body the right to work which could yield him a reasonable wage to enable him to feed and cloth himself and provide shelter for himself. We hope that this committee would not deny this right. With these words I support the Hon'ble mover.

Hon'ble President : Before the Hon'ble mover begins his reply to the debate, I would request him to read out the Resolution again.

Hon'ble M.A. Beg : Sir, that will be when I conclude my speech.

Before I rise to reply to the remarks made by various Hon'ble Members on this motion, I beg to offer my personal explanation with regard to one made by one of the Hon'ble members. When I mover the motion I proposed an amendment with regard to the proposed last two names of this committee. On making that submission to the House I suggested two other names for substitution. I explained to the House why I made that proposal, but the amendment was disallowed. There was no question of wearing mind when mind when I suggested the amendment. Before I move my amendment I fully realized the utility of the members of the committee. Day before yesterday certain events took place on the floor of this House and that is why I have proposed substitution for the last two names of this committee.

This morning came another important question before the House that besides being a member of this committee the Hon'ble member will have to do a good deal of spade work in preparing material for the compensation committee. Moreover, his name is again being proposed for the second committee in which besides, working as a member he shall have to work as Secretary to that committee and it will be a great burden on him and I think that he needs relief. I have made the previous selection with open eyes and today I again with open eyes propose the name other members with due respect to Hon'ble members previously proposed. I beg to propose that M/S Hakim Habib Ullah and Abdul Gani Trali be substituted for M/s Mir Qasim and Assad Ullalh respectively.

I have already said the question of Rights of Citizenship is the question of world importance but some complications have been attached to it, new complication that has arisen in how a man losses his right of citizenship in a country where he was born and lived for a series of years and what would have happened to his right of citizenship had he abandoned his own home land and domiciled in some foreign country and in due course of time he again would have claimed the rights of Citizenship in his own land in accordance with the law of his country. This question will have to be examined carefully and assure the Hon'ble members who have made every adequate and valuable suggestions that such suggestions as well as other suggestions which he will come across in framing the Fundamental Rights and Citizenship will be given adequate and due consideration. We shall make such a definition of the Fundamental rights and Citizenship as will safeguard the rights of the people of Jammu and Kashmir and also the rights of the people too so that any body who comes across these principles laid down in our Constitution may proud of them. In regard to fundamental rights to which a reference has been made on the Floor of the House that is equality before law, irrespective of nationality, religion, race of birth, no person, however, high born; no person wherever born, no person with whatever qualification or caste will be treated discriminately. Everybody will be treated equally before Law and the supremacy of Law shall always prevail. A person may belong to any caste, creed or colour but he shall have to bow before

Law without any distinction or discrimination. Secondly, our fundamental right will bear out that no discrimination shall be tolerated on the grounds of religion. (Cheers)

We want to nury, dury deep, all these feelings of hatred and spite created on the ground of faith and religion in Jammu and Kashmir and no such discrimination, which existed heretofore on the basis of religion, shall be tolerated. (Cheers). May I remind you, sir, that the question of fundamental rights was the main reason for which we struggled hard during the last twenty years under the able and inspiring leadership of Sher-I-Kashmir and suffered troubles and tribulations. We want ahead with a banner under which all communities relied round and stood firm like a back. I may assure you. sir, that the foundation of our constitution will absolutely be non religious and of secular character which any civilized country may feel proud of.

Now I beg to the House that the resolution as amended may be passed. In the amended form the personnel of the Committee will be as follows:-

1. The mover as Chairman and ten other members.

1. Mr. G.M.Hamdani,
2. Mr. Chuni Lal,
3. Mr. Abdul Gani Goni,
4. Mrs. Mani,
5. Mr. Mubarik Shah,
6. S. Kulbir Singh,
7. Mr. Mansukh Rai,
8. Mr. Kashuk Bakula,
9. Mr. Hakim Habibullah.
10. Mr. A. Gani Trali.

Hon'ble President : Before I put the resolution to the House I would enquire whether any member of the House has any objection to the amendment proposed by the mover.

Voices : No, No.

Hon'ble President : I would now put the Hon'ble Mr. Beg's resolution to the House. Those who are in favour may raise their hands. No body is against. The Resolution is carried.

Hon'ble President : I would now request Hon'ble Sheikh Mohammad Abdullah to move his resolution.

Appointment of Basic Principles Committee.

Hon'ble Sheikh Mohammad Abdullah (Prime Minister) : Mr. President, I beg to move the resolution standing against my name.

"This Assembly resolves: -

1. That a Basic Principles Committee be appointed consisting of : -
 - (a) The mover as Chairman, and
 - (b) Seventeen other Members named below:-
 1. **Hon'ble Bakshi Gulam Mohd,**
 2. **Maulana Mohd. Saeed,**
 3. **Hon'ble Mirza M.A.Beg,**
 4. **Hon'ble Pt. Girdhari Lal Dogra,**
 5. **Mr. D.P.Dhar,**
 6. **Hon'ble Pt. Shyam Lal Saraf,**
 7. **Mr. Bhagat Ram Sharma,**
 8. **Mr. Mir Qasim,**
 9. **Sardar Harbans singh Azad,**
 10. **Major Piar Singh,**
 11. **Mr. G.M.Hamdani,**
 12. **Mr. Moti Ram Baigra,**
 13. **Mrs. Rajinder Singh;**
 14. **Mr. Ram Piara Saraf,**
 15. **Mr. Abdul Gani Goni,**
 16. **Mr. Mubarik Shah and**
 17. **Mr. Assad Ullah Mir.**
2. That the Committee shall evolve basic principles for framing a Constitution for the State keeping in view the broad outlines of the statement of the Hon'ble Sheikh Mohammad Abdullah made in the Assembly on the 4th November 1951.
3. The Committee may invite any other person to take part in its deliberations.
4. That the Chairman may delegate his functions to any other member of the Committee during his absence.
5. That the quorum for the Committee shall be one third of the total number of members for the time being of the Committee.
6. That the Committee shall submit its report to the Assembly within four months from this date.

7. That Mr.Mir Qasim will function as the Secretary of the Committee.

Sir, I need not go into the details of the objectives of this Committee. I have already indicated in my statement on the 5th of November, the aims and objectives and other principles, which should guide us while framing the constitution of the Jammu and Kashmir State. I would only like to reiterate those relevant passages so that the Hon'ble members who have been proposed on this committee may take due note of these passages. As a matter of fact, the organization to which we have the honour to belong and which has sent us here has laid down the basic principles for our future constitution in a booklet named New Kashmir. This was done in the year 1938 or 1939. I would again like to remind the Hon'ble members of this House and particularly those whom I have proposed or this committee to fully keep in view the words contained in the 'New Kashmir' which are as follow: -

We the people of Jammu and Kashmir, Ladakh and the Frontier regions including Poonch and Chenani illaqas commonly known as Jammu and Kashmir State in order to perfect our union in the fullest equality and self determination to raise ourselves and our children for ever from the abyss of oppression and poverty, degradation and superstition from mediaeval darkness and ignorance into sunlit valleys of plenty ruled by freedom, science and honesty in worthy participation of the historic resurgence of people of the east and the working masses of the world and in determination to make this our country a dazzling gem do propose the following constitution for the State.

It will be the sacred duty of the members of the committee whom I have proposed to take due note of these inspiring words. As to the main task of this committee they have to lay down broad principles on which future constitution will be framed; and in regard to which I hope drawn particular attention in my statement on 5th November, 1951, in the following words: -

"We shall naturally be guided by the highest principles of the democratic constitutions of the world. We shall base our work on the principles of equality, liberty and social justice which are an integral of all progressive constitutions".

Naturally the work of this Committee is so important and difficult that it will demand greatest attention towards this task from the members proposed to serve on this committee. I have tried my best to draw best talent that this House could give me in order that these Hon'ble members may study various constitutions of the world and then put before this House suitable suggestions so that this House may appoint a Drafting Committee which would take fullest advantage of the labours of this Committee. I have also tried that this committee may have the guidance of all the important elements belonging to this country so that the principles which this committee may lay down for the Drafting Committee may be acceptable to the entire country. With these words. Sir, I hope the House will give consent to this resolution.

Maulama Moh'd. Saveed Masoodi: Mr. President; I stand support this motion which has been moved by the Hon'ble Leader of the House. So far as the aims and objects of the resolution are concerned, they are so clear as do not stand in need of any lengthy speech. In view particularly of the speech which the Quaid-i-Azam delivered in the House two day earlier they do not call for any further elucidation with regard to the importance of this Committee believe that this Committee is the most important of all the Committees that have so far been constituted because this Committee will prove helpful in framing the reports of the other Committees and the work of the constitution-framing by this House will be dependant on the work of this Committee. It does not admit any doubt that the personnel of the Committee is constituted of not only the best talents of this house but also the ablest personalities produced by the Jammu and Kashmir State during the course of the last twenty years. Seeing this I am confident that our constitution will be framed on those very fundamentals and will be free from all the defects from which a modern constitution should be. There can be no doubt that it will not be founded on capitalists or feudal basis, but I hope the Committee will take stock in its report of the picture impressed upon the public mind by the Quaid-I-Azam and the National Conference during the course of over twenty years' struggle and thus fulfill all the longings and aspirations that have

been generated in the public mind. It is not now the time to say anything more. The appropriate time for this will be when the Committee presents its recommendation to the House. Remaining content with this I support the Hon'ble mover's motion.

Note:- The Resolution was put before the House and adopted unanimously.
Financial and Administrative Powers to the President and the Assembly.

Hon'ble President:- I would now request Hon'ble Girdhari Lal Digra that he may introduce his motion.

Hon'ble Girdhari Lal Dogra : Mr. President, with the permission of the House I move this Resolution:

“Resolved that pending the submission of the report of the Finance Committee and the Committee for Rules of Procedure and the decision of the House thereon. The President of the Assembly be authorized to exercise the same financial and Administrative powers with regard to Gazetted and non-Gazetted staff and the operation of the grants of the Assembly as are exercised at present by the Hon'ble Minister in regard to departments under them.”

Hon'ble Girdhari Lal Dogra : Sir, this resolution is very important in order to enable to conduct the business of this House during and after the sessions. The things as they stand at present.

Hon'ble President:- It is a fact that at times the Hon'ble Members are permitted to speak in English but it is not proper that every member should at all times speak in English. It is on special occasions only that permission to speak in English can be granted. The language of this House is otherwise Hindustani.

Hon'ble Girdhari Lal Dogra : For continuing its work, It is necessary that this House should be able to delegate the powers that it possesses to some one to the extent required. For instance, if the House has to purchase a pencil worth a piece or two would be necessary to obtain the sanction of this House by moving a resolution on which votes will have to taken be to enable the purchase being

made. Thereafter a Bill has to come up before the House by moving a resolution on which votes will have to be taken to enable the purchase being made. Thereafter a Bill has to come up before the House, which would pass it after consideration. Sir, thus it would require at least two sittings of the House to purchase a pencil valuing a piece or two which would involve an expenditure of thousands of rupees, it is therefore necessary that we delegate powers to you which would enable you to make all kinds of appointments, grant leave to officers and decide other important issues. If an officer resigns and quits service and a substitute has to be appointed in it appears proper that such powers be delegated to your good self. Two committees have been constituted so far. I propose that the powers vested in the Hon'ble Ministers should be delegated to the Hon'ble President until such times as the reports of these Committees come in. When this House adjourns **sine die** the Hon'ble Members will have to draw their T.A. and daily allowance bills. Many of the Members would possibly have to face difficulties in the absence of this delegation. I would, therefore, request the House that it may delegate such powers to your goodself as are necessary and are being exercised by the Hon'ble Minister.

Hon'ble S.L.Saraf: I support the motion introduced in the House by Hon'ble Dogra and request that it may be passed.

Note:- the Resolution was put to the House and adopted unanimously.

***Hon'ble President:** this concludes our today's business. Before I ask for your permission to adjourn the House, I would like to say a word or two and that too with regard to the manner in which you have conducted the business during the past week. I am very thankful to you for the manner in which you respected the rules and regulations, endeavored to enhance the dignity of the House and establish sound parliamentary tradition. If we continue to conduct ourselves in the way, I hope that House would serve as a model in the whole of India. There is, however, a stupendous task before us which has been entrusted to the Committees. The work that is intended to be done through the Committees would

from the basis on which our entire success shall depend. I now ask permission to adjourn the House till such date as shall be announced by me later on.

Note:- the permission was granted by the House which adjourned sine die.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

Monday the 24th March, 1952/12th Chet, 2008.

The Constituent Assembly met in the Grey Hall Jammu at eleven of the Clock.

Mr. President (Mr. Ghulam Mohd. Sadiq) in the Chair.

Mr. President (Mr. Ghulam Moh'd. Sadiq) : Hon'ble Members of the House I welcome you to this session of the Assembly. Before the day's business is started, I may point out that the Hon'ble Members have been allotted seats and if the House finds any defect or desires to propose any change in the arrangement of seats made by me yesterday, I shall consider their suggestions.

1. CONDOLENCE MOTION

Now I want to place two condolence motions before the House and as both of these are of similar nature. I shall move these at a time. If the Hon'ble leader of the house desires, he can speak on both of the motions. The first motion relates to the death of Qazi Attaullah an able leader of the frontier province who took prominent part in the National movement of India prior to the partition. He was the Education and Revenue Minister of the Frontier Province. I will read the text of the condolence motion: -

“The Assembly records its grief at the sad demise of Qazi Attaullah, an prominent National Leader of the Frontier Province and a close associate of the Frontier Gandhi and the tragic circumstances in which it occurred. The late Qazi Attaullah rendered outstanding services in the cause of the Indian freedom and had great sympathy with the freedom movement of the people of Jammu and

Kashmir. The Assembly requests the President to convey its deep sympathies to the grief stricken family of the deceased”

I also read the second motion regarding the death of King George VI: -

“The Assembly places on record its sense of deep sorrow at the said demise of his Majesty King George VI and requests the President to convey its heartiest condolence and sympathies to Queen Elizabeth II the Queen mother and other Members of the Royal family”

Hon’ble Sheikh Mohd. Abdullah : Sir, I associate my self with the feeling of grief and sympathy expressed in the motions moved by the Chair and would request that our condolences be conveyed to the relatives of the deceased. The death of King VI occurred at a time when I was returning from Paris. We heard the news of his death at the London Air Port. He became the king when his brother Edward VII severed his connections with the throne. He was a good natured and a quite gentleman. During his lifetime two important incidents occurred. The first was the World War II which was fought during his reign when he saved the staggering boat of the British Empire with courage, bravery and determination. The world knows that he did not leave his palace but in order to keep up the national moral, he continued to live there with his Queen when the Germans were bombing the city of London. The second important event was the political emancipation of the four hundred million people of India who attained freedom from foreign yoke during the reign of this King who had the honour of affixing his signatures to Act of Indian Independence. The World War had badly affected his health. He had some what recovered, but on one night when he went to bed all right he was found suddenly dead in the morning. The whole world and every soul in India was shocked at his tragic death. I expressed my heart felt condolence on this untimely death at the London Air port. I along with the Hon’ble Members of this House sympathize with the people of Britain in their sad bereavement. I request you to convey our sympathies to Queen Elizabeth, Queen mother and other relations of the deceased.

As regards the death of Qazi Attaullah, I may say that he was the chosen leader of our neighbour province. He was very much interested in the freedom movement of Kashmir. Whenever he visited this place he would enquire anxiously from every one about our movement. I am proud of having personal acquaintance with him. He used to discuss the different phases of our movement, which was identical with the freedom movement of the frontier Province. Late Qazi was the right hand man of Badshah Khan and underwent imprisonment many a time. When the freedom movement of India gained momentum and the Congress Governments assumed offices in the different provinces, Qazi Attaullah held the posts of Education Minister and Revenue Minister in Dr. Khan Sahib's Cabinet. On the partition of India the conditions changed considerably. Qazi Attaullah's death did not occur at a time when he was fighting against slavery and was struggling to put an end to the imperialistic regime. He met his death when India had become free and was partitioned. Then Pakistan came into existence and the Pakistan Government put him and Badshah Khan behind the bars and he was shifted from one Jail to another without trial. The Pakistan Government did not release him even when he fell ill. At last he was released from Lahore jail and his freedom was limited so much so that no sooner he was released from Jail, he was admitted in the hospital where he died after some days illness. The conditions under which his death occurred are really pitiful. His close association urges us to say that we have lost our dearest friend. I request that the condolence motion be conveyed to the relations of the deceased.

Hon'ble President : I shall put both these resolutions together and would request the Hon'ble Members to keep standing as a mark of respect to the memory of the deceased .

(Note : Resolutions were adopted by the House which stood in silence for some time).

II REPORT OF THE COMMITTEE ON RULES OF DPROCEDURE

(Vide Appendix A)

Hon'ble President: Hon'ble M.A. Beg will now present the report of the Rules Committee.

Hon'ble M.A.Beg : Hon'ble President. The Assembly in its last session had appointed a committee to frame the rules of procedure to guide the business of this House. Various meetings of committee were held and after due deliberation a report was framed which in future will form our procedure. This embodies the detailed rules which will govern the business of this House in future the copies of the report have been placed on the table of the House, I , therefore, move that the report be taken into consideration.

Hon'ble Pt. Sham Lal Saraf : I second this resolution.

Hon'ble President: This report is before the House for discussion next is the motion for the extension of time for presentation of the report of the Basic Principles Committee.

Hon'ble M.A.Beg : Sir, with your permission I move: -

“That the Constituent Assembly extends the time for the presentation of the report of the Basic Principles Committee appointed by the resolution dated 7th November. 1951, for a period of another four months and authorize the president to grant such further extension of time as may be required.

A Committee to frame the future constitution of the State was formed in the previous session of the Assembly to report on the basic principles. Various sittings of this committee were held in this connection and the Committee considered the important appestats of the basic principles. The members of the committee carefully studied the Constitutions of various countries and after taking into consideration the conditions prevailing in the country formulated principles which should form the basic of the future Constitution. I want to inform the House about the work done by the committee till now. So far as the basic principles of the future Constitution are concerned it is lour intention that its frame-work be

prepared in such a way as to make the Jammu and Kashmir State an autonomous unit with the republic of India like the autonomous Republics which include India as well. There will be five different organs to finalize the administration of this Republic's State. The highest of these organs will be called as Head of the State to be designated as State President. Under the basic principles we have framed proposals, which pertain to the duties, rights and various powers of the State President. How to make the appointment of the State president. In this connection a framework has been prepared after having studied the Constitution of various countries. The second organ of the Constitution will pertain to the State Government which will provide for the appointment of Ministers and define their duties. Powers and responsibilities. This chapter will also lay down the method of filling up their vacancies and conducting the administration of the State. Another chapter has been added which pertains to the basic Principles. Our National Assembly comes under the fourth chapter. The election of the members of the Assembly, and the rules regarding the said elections, and disqualifications of the members for the election rules for filling up their vacancies, holding the session of the Assembly. Promulgation of the Constitution and legislation passed by the Constituent Assembly fall under this Chapter.

M.Mohd. Sayeed Masudi : Sir, I rise on a point of order. Is the Hon'ble Mover introducing the report or does he want extension of time for its submission? Under the rules the Hon'ble Mover can speak at this stage. He can only speak if he is presenting the report.

Hon'ble M.A. Beg : Hon'ble President, on the point of order towards which the Hon'ble Mover has invited attention your honour can give the ruling. I have placed before the House the work done so far by the committee. I am presenting to the House the complex problems which have confronted us in this task and am seeking for extension of time.

Hon'ble President: So far I have understood the Hon'ble Member his intention is to explain the reasons responsible for the delay in the presentation of the report and for requesting for an extension of time. The speech of the Hon'ble Members

is relevant to this extent. I would, however, ask the Hon'ble Mover to restrict his speech to the reasons necessitating an extension of time.

Hon'ble M.A.Beg: Another problem confronting us was the extent of restrictions to be imposed with regard to the subjects in which we have acceded to the Centre and besides this in his policy speech the Hon'ble Leader of the House has referred to the problem of regional autonomy, which has also formed the subject matter of our discussions. We have to examine the effect of these two problems on our Constitution as well as on the Constitution of the Centre to which we have acceded and all such matters will come within the framework of this report.

The Committee could not examine all the implications, which arose during its deliberations. As it is desired to frame a Constitution for the country, all such factors and implications deserve careful consideration by the House. After completing all these formalities we shall be in a position to submit a complete report, which cannot be done in such a short space of time.

I, therefore, request that four months extension be granted. Keeping in view the complications that may arise in this behalf it is possible that there might be some more delay even after this period, so the House may authorize the Hon'ble President to grant further extension of time. We have to go through the Constitutions of the various countries and it is possible that their study might lead to further complications and for that reason also the Hon'ble President should have authority to grant extension of time. With these words I move the resolution.

Hon'ble President:- I think the Hon'ble Mover has not laid the Motion before the House in a proper form.

Hon'ble M.A.Beg:- I move that "Constitution Assembly extend the time for the presentation of the report of the Basic principles Committee appointed by the resolution dated 7th November, 1951, for a period of another four months and authorizes the President to grant such further extension of time as may be required"

Hon'ble G.L. Dogra : Sir, the Hon'ble Mover has invited the attention of the House towards those circumstance which were responsible for the delay in the presentation of the report of the committee within this short period, as many complications had arise. To frame the constitution of the State is not an ordinary job. I, therefore, request that the Committee to be granted further time to frame the report. With these words I support the Hon'ble Mover's motion.

Note : - The motion was put before the House and adopted.

Hon'ble President: Next item.

Hon'ble M.A.Beg: I move that "the Constituent Assembly extends the time for the presentation of the report of the Advisory committee on Fundamental Rights and Citizenship, appointed by the resolution dated 7th November, 1951, for a period of another four months and authorizes the President to grant such further extension time has just been carried includes with its purview matters falling within the province of this Advisory Committee on fundamental Rights and Citizenship. Since the first problem is highly complicated and the report of that committee has not been completed as yet and what I have stated here is simply a collection of ideas which require to be put in proper form, I therefore, move that four months extension be granted and the Hon'ble president be authorized to grant such further extension be granted and the Hon'ble president be authorized to grant such further extension as he may deem necessary.

Shrimati Isher Devi Maini : Hon'ble President, I support this resolution because I believe that work should be done after thorough consideration. As a mother I want to say that when a baby cries for food and we do not prepare its food properly and give it half cooked to cat, it is sure to suffer from stomach ache very soon that is why I have supported the resolution as I wish that the food be properly cooked it is necessary that the flour should be well kneaded so as to be free from all defects.

Hon'ble President: The question is the " the Constituent Assembly extends the time for the presentation of the report of the Advisory Committee on Fundamental

Rights and Citizenship, appointed by the resolution dated 7th November, 1951, for a period of another four months and authorizes the President to grant such further extension of time as may be required.”

(The motion was adopted)

Note : - There was other business on the agenda and the Hon’ble President adjourned the House till 25th of March, 1952.

APPENDIX

JAMMU AND KASHMIR GOVERNMENT FROM THE CHAIRMAN

Committee on Rules of Procedure and other matters Jammu

To

**THE HON’BLE PRESIDENT
Jammu and Kashmir Constituent Assembly, Jammu**

Subject:- Report of the Committee of the Constituent Assembly on Rules of Procedure and other matters.

Sir,

We the undersigned members of the Committee appointed by the resolution of the Constituent Assembly passed on the 1st. November, 1965 have the honour to submit this report on the following matters referred to us:

- (a) Rules of Procedure of the Constituent Assembly:
- (b) Powers of the President of the Assembly:

- (c) Organization of the work of the Assembly including the appointment and powers of the office bearers other than the president:
- (d) Procedure for the declaration and filling up of the vacancies in the Assembly.

The Committee in its first meeting appointed a Sub-Committee consisting of :-

- | | | |
|-------|--|-------------------|
| (i) | Hon'ble M.A.Beg | Chairman. |
| (ii) | Hon'ble Ghulam Mohi-ud-Din Hamadani | Member. |
| (iii) | Hon'ble Kulbir Singh | Member. |
| (iv) | Pt. Hiranand Raina | Secretary. |

And directed that the draft or the rules be framed by Pt. Hiranand Raina, Secretary and L. Pishori Lal Gupta,, joint Secretary of the Constituent Assembly under the guidance of the Constitutional Advisor who was also requested to attend.

The draft prepared by the Sub- Committee was discussed at the meeting of the Committee who have after careful consideration and detailed discussion framed the enclosed rules. The committee recommends that these draft Rules on procedure and other matters may be adopted by the filling up of casual vacancies in the Assembly, define the functions of the President and his powers with regard to the office of the Assembly. These also embody the detailed rules governing the conduct of business in the Assembly with regard to the business coming up before the Assembly whether in the form of Motion, Resolution, and Reports of the Committee or the legislation relating to the discussion and passing of the Constituent or a Bill amending the Constitution. The Committee is of the opinion that the draft will satisfy all the requirements of the Constituent Assembly on the points included within the terms of reference.

The Committee had to submit this report within there months which could not be done on account of difficulties of communication between the two provinces during winter months and request that the time limit may be extended to this date.

S. Kulbir Singh who was not present at the last meeting when the report was finalized has now signed the report after reading and agreeing with it.

Yours faithfully

(sd)

G.M. Sadaq,

Chairman,

Committee on Rules of procedure
and other matters.

JAMMU, THE 21ST MARCH 1952.

1. (sd) M.A.Beg (Member)
2. (sd.) G.L. Dogra (Member)
3. (sd.) Chuni Lal Kotwal (Member)
4. (sd.) Assadullah Mir (Member)
5. (sd.) G.M.Hamdani (Member)
6. (sd.) Kulbir Singh (Member)

RULES OF BUSINESS AND PROCEDURE Preliminary

1. **Short title and commencement** –(1) these rules may be called the
Constituent Assembly Rules.

(2) They shall come into force at once.

2. **Definitions.**- In these rules, unless the context otherwise requires: -

- (a) “Assembly” means the Constituent Assembly Jammu and Kashmir;
 - (b) “Chairman” means the person who for the time being presides over the Assembly or any of its Committees.
 - (c) “Member” means a member of the Assembly;
 - (d) “Motion” means a proposal made by a member for the purpose of eliciting a decision of the Constituent Assembly and includes a resolution;
 - (e) “President” means the person elected by the Assembly as its President and his successors in office;
 - (f) “Secretary: means the Secretary of the constituent Assembly and includes any person for the time being performing the duties of the Secretary.
-

CHAPTER

ADMISSION OF MEMBERS AND VACATION OF SEATS II

3. **Admission of members.** – No member shall take his seat in the Assembly until he signed his name in the register kept for the purpose at a meeting of the Assembly or, if the Assembly is not in session in the presence of the President.
 4. **Resignation:—**
 - (1) A member may resign his office by writing under his hand addressed to the President
 - (2) On the acceptance of the resignation by the President the seat shall become vacant.
 5. **Casual Vacancies.** – (1) When a vacancy occurs by reason of death, resignation or otherwise in the office of a member of the Assembly the President shall notify the vacancy in the Government Gazette and call upon the constituency concerned to elect a person for the purpose of filling the vacancy, in accordance with Jammu and Kashmir Constituent Assembly Election Rules (Part I and II, 2008).
-

CHAPTER III THE PRESIDENT

6. **Election.** – (1) The President of the Assembly shall be elected by the Assembly from among its members.
- (2) The President shall cease to hold office as such if he ceases to be a member of the Assembly.
- (3) **Vacation of office.**– The president may resign office by writing under his hand addressed to the Secretary for Communication to the Assembly if the Assembly is in session, the resignation shall be read out to the members if the Assembly is not in session, it shall be published in the Government Gazette; upon being so read out or published as the case may be, it shall become effective.
7. **Procedure for filling vacancy.**– (1) When, owing to a vacancy in the office of President of the Assembly the election of a president becomes necessary, the Deputy President shall fix a date for the holding of the election and the Secretary a nomination paper signed by himself as proposer and by a third member as seconded and stating.
- (2) At any time before noon on the day preceding the date so fixed, any member may nominate another member for election by delivering to the Secretary a nomination paper signed by himself as proposer and by a third member as seconder and stating.
- (a) the name of the member nominated; and
- (b) that the proposer has ascertained that such member is willing to serve as President if elected.
- (3) Any member who has been nominated may withdraw his candidature at any time before the Assembly proceeds to hold the election.
- (4) On the date fixed for an election, the Deputy President shall read out to the Assembly the names of the members who have been duly nominated and have not withdrawn their candidature together with those of their proposers and seconders, and if there

is only one such member, shall declare that member to be duly elected. If there is more than one such member, the Assembly shall proceed to elect the President by ballot.

- (5) Where there are only two candidates for election, the candidate who obtains at the ballot the larger number of votes shall be declared elected. If they obtain an equal number of voters the election shall be by the drawing of lots.
- (6) Where more than two candidates have been nominated and at first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election, and balloting shall proceed. The candidate obtaining the smallest number of votes at each ballot being excluded from the election, until one candidate obtains more votes than the remaining candidate, or than the aggregate votes of the remaining candidates, as the case may be, and such candidate shall be declared elected.
- (7) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under sub-rule (6) the determination as between the candidates whose votes are equal, of the candidate who is to be excluded shall be by the drawing of lots.

8. **Functions of the president:-**

- (1) The deliberations of the Assembly, shall be presided over by the President when he is present.
- (2) The President shall be the guardian of the privileges of the Assembly, its spokesman and representative and its highest executive authority.

9. **Delegation of President's functions.** – The President may, subject to such conditions as he may prescribe, delegate to the Deputy President such of his powers and duties as he may think fit.

CHAPTER IV

10. **Deputy President.** – There shall be a Deputy President of the Assembly who shall be elected by the Assembly from among its members in the manner prescribed for the election of President in rule 7.
11. The President shall fix the date and time for the nomination and election of the Deputy President to be elected under rule 10.
12. **Vacation of office.**- (1) The Deputy President shall cease to hold office as such if he cease to be a member of the Assembly. The Deputy President may resign office by writing under his hand addressed to the President, and, on acceptance thereof by the President the resignation shall become effective.
 - (2) **Procedure of filling vacancy,** - Any vacancy in the office of the Deputy President of the Assembly shall be filled by election by the Assembly from among its members at such time and in such manner as the President may prescribe
13. **Person to preside over assembly in absence of president.**- In the absence of the President, the Deputy President shall preside over the Assembly.
14. In the absence of the President and the Deputy President the Assembly may choose any member to perform the duties of the Chairman.

CHAPTER V.

Office of the Constituent Assembly

15. **Head of the Office of the Assembly:-**
 - (1) The President shall be the Head of the office of the Assembly.
 - (2) The office shall consist of two branches an Advisory Branch and an Administrative Branch.
 - (3) The Constitutional Adviser of the State shall act as the Constitutional Adviser of the Assembly and the advisory Branch shall work under him.
 - (4) There shall be a full- time Secretary who will be appointed by the President and will be under the Administrative control of the President

- (5) Both the branches shall have such officers and establishment as the President may on the advice of the Finance Committee determine.
- (6) Except as otherwise provided in this rule the President shall exercise in respect of the office of the Assembly all powers of appointment, control and discipline provided that he may delegate to any officer such of these powers as he thinks fit and subject to such conditions as he may prescribe.

16. It shall be among the duties of the Secretary: -

- (a) to administer the funds placed at the disposal of the Assembly in accordance with the provisions in the budget accepted by the Assembly;
- (b) to keep and maintain the record relating to the business of the Assembly; and
- (c) to make arrangements for meetings of the Assembly and the Committees.

CHAPTER VI

Business of Assembly

17. Business.- (1) The business of the Assembly means the business conducted :-

- (a) in the Assembly itself;
- (b) in the Committee of the whole Assembly;
- (c) in the steering committee;
- (d) in the Finance Committee;
- (e) in such other Committees or Sub-Committees as have been or may be set-up by the Assembly.

(2) The business of the Assembly shall be conducted at Srinagar or at Jammu unless the Assembly resolves otherwise.

(3) The conduct of the business of the Assembly and the procedure thereof shall be regulated by the rules and standing orders and the resolutions of the Assembly and by the rulings given from time to time by the Chairman

18. Dissolution. – The Assembly shall not be dissolved except by a resolution assented to by at least two-thirds of the total number of members of the Assembly.

19. **Dates of meetings.-** The Assembly shall sit on such dates as the President having regard to the state of business of the Assembly, may from time to time direct:
Provided that the president shall not adjourn the session for more than three days at a time except with the consent of the Assembly:
- Provided further that the Chairman may adjourn the session to the next working day.
20. **Committee of the whole assembly:-** The Assembly may resolve itself in to a Committee of the whole Assembly.
21. **Time of meeting:-** Meeting of the Assembly shall commence at 11 A.M, except as otherwise resolved by the Assembly or directed by the Chairman.
22. (1) the presence of at least 35 members shall be necessary to constitute a meeting of the Assembly and the presence of at least one third of the whole number of members shall be necessary to constitute a quorum for the meeting of any of the Committees of the Assembly.
- (2) if the Chairman on account being demanded by a member at any time during the meeting ascertains that the number of members present is less than 35 in the case of a meeting of the Assembly or that one third of the whole number of members are not present in the case of a meeting of a 'Committee, he shall adjourn the Assembly for fifteen minutes and if on a fresh count being taken after that period it is found that there is still no quorum, he shall adjourn the Assembly or the Committee, as the case may be till the next date on which it ordinarily. Sits.
23. **Arrangement of business: -** (1) A list of business for the day shall be prepared by the Secretary and a copy thereof shall be supplied for the use of every member before the commencement of the business of the day. The business thus prepared shall be called the "Orders of the Day".
- (2) Save as otherwise provided in these rules, no business not included in the orders of the Day shall be transacted at any meeting without the leave of the Chairman.
- (3) The business for the day shall be transacted in the order in which it appears on the Day unless otherwise directed by the Chairman.
24. The business of the Assembly shall be brought before it or its Committees by means of: -

- (a) a motion;
 - (b) a report of a Committee;
 - (c) an amendment to a motion or an amendment to an amendment.
25. (I) Unless otherwise directed by the Chairman notice of every motion, accompanied by a copy of the motion shall be given at least five clear days before the day on which the motion is to be moved in the Assembly.
- (2) Every notice required by these rules shall be given in writing addressed to the Secretary and signed by the member giving notice and shall be left at the Notice Office, which shall be open for the purpose between the hours of 11 A.M, except on Sundays and other public Holidays.
 - (3) Notices left when the office is closed shall be treated as given on the next open day.
 - (4) Where five clear days, notice of a motion has been given, the Secretary shall send a copy of the motion to the members at least two clear days before the day on which it is to be moved; and in other cases, he shall send a copy to them as soon as possible after notice has been received.
 - (5) No notice shall be required:-
 - (b) for a motion for an adjournment of the Assembly;
 - (c) for a motion for adjournment of the consideration of the motion which is under discussion;
 - (d) for a motion for withdrawal of a resolution or amendment thereto;
 - (e) for a motion for the reference back to a Committee;
 - (f) for a motion that the Assembly do resolve itself into Committee of the whole; or
 - (g) for a motion which, in the opinion of the Chairman, is of urgent and vital importance.
26. **Motion of adjournment:** There shall be no motion for an adjournment of the assembly for the purpose of discussing any matter not included in the orders of the day, or not connected with the work of the Assembly.
27. **Seconding of motion:** Every motion, which has been moved, shall be seconded; otherwise it shall not be discussed, nor shall any question be put upon it.
28. **Seating of Members:** The members shall sit in such order as the President may direct.
29. **Member to rise when speaking:** member desiring to make any observations on any matter before the Assembly shall only speak when called upon to do so by the Chairman and shall rise when he

speaks, except as permitted by the Chairman. If, at any time, the Chairman rises, the member shall take his seat and cease speaking.

30. **Language in the Assembly:** (1) In the Assembly business shall be transacted in Urdu provided that the Chairman may, in his discretion, permit any member to speak in English and if he cannot adequately express himself in either language, to address the Assembly in his mother tongue.

(2) Where a member speaks in the Assembly in language other than Urdu or English, the Chairman may call upon such member to furnish a translated copy of the speech in Urdu or English to the Secretary.

(3) The official records of the proceedings of the Assembly shall be kept in Urdu as well as in English.

31. **Motions:**

- (1) A matter requiring the decision of the Assembly shall be brought forward by means of a question put by the Chairman.
- (2) In all matters requiring to be decided by the members of the Assembly, the Chairman shall exercise a vote only in the case of an equality of votes.
- (3) Votes may be taken by voices or division and shall be taken by division if any member so desires.
- (4) The Chairman shall determine the method of taking vote by division.
- (5) The result of a division shall be announced by the Chairman and shall not be challenged.

32. **Amendments:**

- (1) An amendment must be relevant to the motion to which it is proposed.
- (2) An amendment may not be moved which has the effect of being the negative of the original motion.
- (3) Except as permitted by the Chairman.
- (a) notice of any amendment to a motion must be given at least one clear day before the motion is to be moved in the Assembly;
- (b) notice of any amendment to an amendment must be given before the Assembly meets for the day on which the motion is to be moved.

- (4) The Chairman may disallow any amendment, which he considers to be frivolous or dilatory.
- (5) The Chairman may put amendments to the vote in any order he may choose.

33. **Reopening of decision:** No question which has once been decided by the Assembly shall be reopened except with the consent

of at least one fourth of the members present and voting.

34. **Closure:** Any time after a motion has been made any member may move “that the question be now put” and unless it appears to the Chairman that the motion is an infringement of the right of reasonable debate; the Chairman shall put the motion “that the question be now put” and if the motion, is accepted, no further discussion on the original motion shall be permitted except for a reply by the member who made the original motion.
35. **Decisions on points of order:** In all matters relating to procedure or the conduct of business of the Assembly, the decision of the Chairman shall be final.
36. **Irrelevance or repetition:** The Chairman of the Assembly after having called the attention of the Assembly to the conduct of a member who persists in irrelevance or in tedious repetitions, either of his own argument or of the arguments used by other members in debate may direct him to discontinue his speech, and the member shall, thereupon presume his seat.
37. **Power to preserve order:** (1) The Chairman shall preserve order and shall have powers necessary for the purpose of enforcing his decisions on all points of order.
- (2) The Chairman may, in the case of grave disorder arising in the Assembly, suspend any sitting for a period not exceeding three days.
38. (1) The admission of persons other than members to the Assembly Chamber and its galleries during the sittings of the Assembly shall be regulated in accordance with the orders of the Chairman.
- Provided that when a meeting is held in Camera no persons other than members and the officers and staff on duty shall be admitted inside Assembly Chamber or its galleries.
- (2) The meetings of the Assembly may, in the discretion of the Chairman, be held in Camera.
- (3) The proceeding of all Committees shall be conducted in Camera.
- (4) the Secretary shall cause full reports of the proceedings of the Assembly to be printed and supplied to all members.

- Provided that, where any meeting is held in Camera such reports shall be marked "Confidential" and for the personal use of the members only.
- (5) where any meeting of the Assembly is held in camera the Chairman may authorize the summary of the proceedings to be issued to the press.

CHAPTER VII

RESOLUTIONS

39. **Form and content of resolutions:** No resolution shall be admitted unless it complies with the following conditions, namely:-
- (1) It shall relate to a matter coming within the purview of the Constituent Assembly as such.
 - (2) It shall be clearly and precisely expressed and shall raise substantially a definite issue.
 - (3) It shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity.
40. **Admissibility or resolution:** The President shall decide on the admissibility of a resolution. If a resolution does not in his opinion comply with the rules, he may disallow it, or may give the member an opportunity to amend the resolution to bring it into conformity with the rules if the defect is of a purely verbal or formal character the President may himself amend the resolution and admit it. The ruling of the President as to whether any resolution complies with the rules or not shall be final.
41. **Intimation to members:** The Secretary shall give intimation to the members that the resolution has been admitted or disallow or allowed as amended by the President as the case may be.
42. **Priority of resolution on the orders of the Day:** The resolution which have not been disallowed by the President shall be entered in separate list of each day and the priority of resolutions for purposes of

discussion shall be determined by the Chairman in his discretion or by ballot if so directed by him.

43. **Motion and withdrawal of resolution:**

(1) If any member in whose name a resolution stands in the Orders of the Day when called upon is absent the resolution shall be deemed to have been withdrawn unless he authorizes with the previous permission of the President any other member to move it on his behalf.

(2) When a member moves a resolution he shall commence his speech by a formal motion in the terms appearing in the Orders of the Day.

44. **Duration speeches:-** The Chairman may in his discretion prescribe a time limit for speeches on a resolution.

45. **Limits of discussion:** The discussion of resolution shall be strictly limited to the subject of a resolution.

46. **Amendments and their notice:** After a resolution has been moved any member may, subject to the rules relating to resolutions, move an amendment to the resolution.

47. **Notice of amendment:**

(1) If notice of such amendment has not been given one clear day before the day on which the resolution is moved any member may object to the moving of the amendment and such objection shall prevail unless the Chairman in the Exercise of his power to suspend this rule allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause a copy of every amendment to be made available for the use of every member.

48. **Withdrawals of resolutions:** (1) A member who has moved a resolution or an amendment to a resolution shall not withdraw the same except by leave of the Assembly.

(2) No discussion shall be permitted on a request for leave to withdraw, except with the permission of the Chairman.

49. **Order of amendment:-** (1) It shall be in the discretion of the Chairman to put first to the vote either the original motion or any amendment which may have been brought forward.

(2) When a resolution involving several points has been discussed, it shall be in the discretion of the Chairman to divide the resolution and to put each or any point separately to the vote.

50. **Resolution not discussed:** If a resolution which has been admitted is not discussed during the session, it shall be deemed to have been withdrawn.

51. **Bar to moving similar resolution:** When a resolution has been disallowed under the rules or Standing Orders, or has been withdrawn with the leave of the Assembly, no resolution raising substantially the same question shall be moved.

52. **Submission of copies of passed resolutions to the Government:** The Secretary shall forward to the Chief Secretary to Government a copy of every resolution which has been passed by the Assembly.

CHAPTER VIII

LEGISLATION FOR MAKING PROVISION AS TO THE CONSTITUTION OF THE STATE

53. **Notice of motion for leave to introduce a Bill:** (1) Any member desiring to propose any amendment to the Jammu and Kashmir Constitution Act, 1996 as amended by the Jammu and Kashmir Constitution Act No.XVII of 2008 or any order, rule or other instrument made there under, may move for leave to introduce a Bill for the purpose; shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and a full statement of Objects and Reasons.

(2) The period of notice of a motion for leave to introduce a Bill under this rule shall be fifteen days, unless the President allows the motion to be made at shorter notice.

54. **Motion for leave to introduce:-** If a motion for leave to introduce a Bill is opposed, the Chairman, after permitting if he thinks fit, a brief explanatory

statement from the member who moves and from the member who opposes the motion, may without further debate put the question.

55. **Publication after introduction:** As soon as may be after the Bill has been introduced it shall, unless the President otherwise directs, be published in the Government Gazette.

56. **Motion after introduction:** At the time when the Bill is introduced or on some subsequent occasion, the member who has introduced the Bill may make one of the following motions in regard to the Bill, namely:

- a) that it be taken into consideration by the Assembly either at once or on some future day to be then specified; or
- b) that it be referred to a Select Committee;

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members and that any member may object to any such motion being made unless copies of the Bill have been so made available for three days before the day on which the motion is made and such objection shall prevail unless the President in his discretion allows the motion to be made.

57. **Discussion of principles of Bills:-** (1) On the day on which any such motion is made, or on any subsequent day to which the discussion thereof is postponed, the principles of the Bill and its general provisions may be discussed, but the details of the Bill shall not be discussed further than is necessary to explain its principles.

(2) At this stage, no amendments to the Bill may be moved, but if the member who has introduced the Bill moves that his Bill be taken into consideration any member may move as an amendment that the Bill be referred to a Select Committee.

58. (1) The member who has introduced the Bill shall be a member of the Select Committee, and it shall not be necessary to include his name in any motion for appointment of such a Committee.

(2) The other member of the Committee shall be appointed by the Assembly when a motion that the Bill be referred to a Select Committee is made.

- (3) The Committee shall choose a member of the Committee to be their Chairman, and in his absence may choose another member of the Committee to preside and exercise the powers of the Chairman.
 - (4) The Chairman shall not vote in the first instance, but in the case of an equality of votes shall have a casting vote.
 - (5) The Select Committee may hear expert evidence and representatives special interest affected by the measure before them.
59. **Quorum of Select Committee:** (1) At the time of the appointment by the Assembly of the members of a Select Committee the number of members whose presence shall be necessary to constituted a meeting of the Committee shall be fixed by the Assembly.
- (2) If at the time fixed by any meeting of the Select Committee, or if at any time during any meeting the quorum of members fixed by the Assembly is not present, the Chairman of the Committee shall either suspend the meeting until a quorum is present or adjourn the Committee to some future day.
 - (3) Where the Select Committee has been adjourned in pursuance of sub-rule (2) on two successive days fixed for the meeting of the Committee the Chairman shall report the fact to the Assembly.
60. **Reports by Select Committee:** (1) when a Bill has been referred to a Select Committee, the Committee shall made a report thereon.
- (2) Reports may be either preliminary or final.
 - (3) If any member of a Select Committee desires to record a minute of dissent on any point he must sign the report stating that he does so subject to his minute of dissent, and must at the same time hand in his minute.
61. **Presentation of report:** (1) the report of the Select Committee on the Bill shall be presented to the Assembly by the Chairman of the Committee.
- (2) In presenting a report the Chairman shall if he makes any remarks, confine himself to a brief statement of fact, but there shall be no debate at his stage.

62. **Printing and publication of reports:** (1) The Secretary shall cause every report of a Select Committee to be printed, and a copy thereof shall be made available for the use of every member of the Assembly. The report, with the amended Bill, shall unless the President otherwise directs, be published in the Government Gazette.

63. **Procedure after presentation of report:** (1) After the presentation of the final report of a Select Committee on a Bill, the member who has introduced the Bill may move.

a) that the Bill as reported by the Select Committee be taken into consideration;

Provided that any member of the Assembly may object to its being so taken into consideration if a copy of the report has not been made available for the use of members for three days, and such objection shall prevail, unless the Chairman in his direction allows the report to be taken into consideration; or

b) That the Bill as reported by the Select Committee be recommitted either.

(1) Without limitation; or

(2) With respect to particular clauses or amendments only; or

(3) With instructions to the Select Committee to make some particulars or an additional provision in the Bill.

(4) If the member who has introduced the Bill moves that the Bill be taken into consideration, any member may move an amendment that the Bill be recommitted.

64. Special procedure regarding introduction of the Draft Constitution of the State: (1) The provisions of rules of 53 to 63 shall not apply to the Draft Constitution of the State settled by the Drafting Committee, if any, appointed by the Assembly and any member may introduce the Constitution after giving notice of his intention and it shall not be necessary to move for leave to introduce the Constitution.

- (2) The period of notice for introducing the Constitution under this rule shall be five days unless the President allows the Constitution to be introduced at shorter notice.

65. **Motion after introduction of the Constitution:** When the Constitution is introduced; the member introducing the Constitution may move that it be taken into consideration by the Assembly.

Provided that no such motion shall be made until after copies of the Constitution have been made available for the use of the members, and that any member may object to any such motion being made unless copies of the Constitution have been made available for fifteen days before the date on which the motion is made and such objection shall prevail unless the President in his discretion allow the motion to be made.

66. **Proposals for amendments:** When a motion that the Constitution or a Bill be taken into consideration has been carried, any member may propose an amendment of the Constitution or the Bill, as the case may be.

67. **Notice of amendment:** (1) If notice of a proposed amendment has not been given two clear days before the day on which the Constitution or the Bill as the case may be, is to be considered any member may object to the moving of the amendment, and such objection shall prevail, unless the Chairman in his discretion allows the amendment to be moved.

- (2) The Secretary shall, if time permits, cause every notice of a proposed amendment to be printed, and a copy thereof to be made available for the use of every member.

68. **Order of amendments:** (1) Amendments shall ordinarily be considered in the order of the clause of the Constitution or the Bill to which they respectively relate; and in respect of any such clause a motion shall be deemed to have been made "That this clause stand part of the Constitution that this clause stand part of the Bill" as the case may be.

- (2) The Chairman shall have the power to disallow amendments which seek to make merely verbal, grammatical or formal changes.

- (3) The Chairman shall also have the power to select for consideration and voting by the Assembly the more appropriate and comprehensive amendments out of the amendments of similar import and any such amendment not so selected may, unless withdrawn, be deemed to have been moved and may be put to the vote without discussion.

69. Submission of the Constitution or Bill clause by clause:

Notwithstanding anything in these rules, it shall be in the discretion of the Chairman when a motion that the Constitution or a Bill be taken into consideration has been carried, to submit the Constitution or any part of the Constitution(or, as the case may be, the Bill or any part of the Bill), to the Assembly clause by clause. When this procedure is adopted the Chairman shall call each clause separately and, put the question. "That this clause (or as the case may be, that this clause as amended) stand part of the Constitution or, as the case may be, of the Bill."

70. Passing of Bills:

- (1) Where a motion that a Bill be taken into consideration has been carried and no amendment to the Bill is made, the member who has introduced the Bill may at once move that the Bill be passed.

- (2) If any amendment of the Bill is made, any member may object to any motion being made on the same day that the Bill, be passed, and such objection shall prevail, unless the Chairman in his discretion allows the motion to be made:

Provided that the Chairman may, before allowing the motion to be made, refer the Bill as amended either to the Drafting Committee referred to in sub-rule(1) of rule 64 or to another Ad-hoc Committee consisting members of the Assembly appointed by him with instructions to carry out such renumbering of the clause, such revision of punctuation and such revision and completion of the marginal notes thereof as may be necessary and to recommend such formal or constitutional amendments to the Bill as may be required.

- (3) Where the objection prevails, motion that the Bill be passed may be brought forward on any future day.
- (4) When the Bill has been so referred to the Drafting Committee or the Committee appointed under the Proviso to sub-rule(2) and the Committee has presented its report, any member may move that the Bill as revised by the Committee be passed.
- (5) To a motion made under sub-rule(2), sub-rule (3) or sub-rule (4) no amendment may be moved which is not either formal or consequential upon an amendment made after the Bill was taken into consideration.

71. **Withdrawals of Bills:** The member who has introduced a Bill may at any stage of the Bill move for leave to withdraw the Bill, and if such leave is granted, no further motion may be made with reference to the Bill.

72. **Authentication of the Constitution by the President:** When the Constitution is passed by the Assembly; the President shall authenticate the same by affixing his signature thereto.

73. **Authentication of Bill by the President and Publication thereof of as Act:** When a Bill referred to in rule 53 is passed by the Assembly; the President shall authenticate the same by affixing his signature thereto. When the Bill has been so authenticated it shall become an Act and shall be published in the Government Gazette.

CHAPTER IX

BUDGET

74. Budget:-

(1) Statement of the estimated expenditure of the Assembly shall be prepared by the Finance Committee and placed before the Assembly for sanction.

(2) Supplementary statement may be similarly placed before the Assembly in accordance with the directions of the President.

**CHAPTER X
SALARIES AND ALLOWANCES**

75. Salaries and allowances:

(1) Allowances of the members shall be fixed by the Assembly on a motion approved by the Finance Committee. The Committee may make standing orders providing for special allowances to members in particular cases as well as for allowances to non-members engaged on the work of the Assembly.

(2) The salaries and allowances of the Government servants whose services are placed at the disposal of the Assembly shall be such as may be agreed upon between the Government and the president acting on the advice of the Finance Committee. The salaries and allowances of all persons recruited directly shall be such as may be fixed by the President on the advice of the Finance Committee.

**CHAPTER XI
MISCELLANEOUS**

76. Power of Assembly or any Committee to act notwithstanding vacancies: Subject to the requirements of a quorum prescribed by or under these rules, the Assembly and any Committee set up by the Assembly shall have power to act notwithstanding any vacancy in the membership thereof.

77. Amendment of rules: No new rule shall be made nor shall any of these rules be amended or deleted except after a reference of the proposal so to make,

amend or delete the rule to the Steering Committee which shall report to the Assembly within two weeks of the receipt of the reference.

78. **Rules of procedure for Committees:** Save as otherwise provided in these rules, the provisions thereof shall apply mutatis mutandis to the Committees of the Assembly.

79. **Removal of difficulties:** Where, in the opinion of the President, any difficulty arises in the carrying out of these rules or in respect of any matter for which no provision is made in these rules, the President may, notwithstanding anything contained therein, make such provision as he thinks fit for the purpose of removing the difficulty.

80. **Interpretation of rules:** If any question arises as to the interpretation of these rules the question shall be referred for the decision of the President and his decision shall be final.

JAMMU & KASHMIR CONSTITUENT ASSEMBLY

JAMMU SESSION

1952-(2009)

Tuesday.....the 25th March, 1952

the 13th Chet. 2009.

The Constituent Assembly met in the Grey Hall, Jammu at Eleven of the Clock.

Mr. President (Hon'ble Ghulam Moh'd Sadiq) in the Chair.

Hon'ble G.M. Sadiq(President): I want to make a small alteration in the list of business for today. It is that the statement of the Leader of the House is to take the place before item No.2 and item No.2 will become item No.1.

Note: Item No.2 of the order of the day was then taken up first.

Hon'ble S.M. Abdullah (Prime Minister) : Sir, I beg to move the following resolution:-

"This Assembly proposes the names of the following persons for being chosen as representatives of the State of Jammu and Kashmir in the two Houses of the Parliament of India and authorizes the Government of Jammu and Kashmir to

make a recommendation to the President of the Indian Republic in accordance therewith.

Council of States:

- 1 S.Budh Singh
- 2 Col. Pir Moh'd Khan
- 3 Rai Bahadur Pt. Anant Ram
- 4 Aga Syed Moh'd Shah Jalali

House of the People:

1. Maulana Mohd Saeed Masoodi
2. Major Lachhman Singh Charak
3. Sofi Mohd Akbar
4. Pt. Shiv Narain Fotedar
5. Ch. Mohd Shafi
6. Kh. Ghulam Qadir

Sir, in normal conditions a different method would have been adopted from the present one in order to choose members for the Indian Parliament. I mean to say that for the four seats of the Councils of State the popular vote would have been for in a suitable way and the members for the House of the People would have been elected directly. The whole state would be divided into six constituencies for this purpose and every constituency would comprise six lakh or at the most seven lakh people and every adult would be entitled to vote. Like other States the voting would have taken place in the beginning of 1952 and then the successful candidates would have been sent to the House of the people. The present condition of the State is like this that a considerable area and a section of the population is still under the enemy occupation. Many people still live as refugees and are scattered over in the far-flung corners of India and Pakistan. For these reasons the delimitation of the constituencies was a difficult problem and in view of this difficulty provision was made in the Peoples Representation Act that election for the Indian Parliament in the Jammu and Kashmir State will be conducted in a different manner from the one to be observed in other States of

India. And this is the manner according to which we are electing these ten representatives to be sent to the Indian Parliament. Sir, you know that we have acceded to the Indian Union which comprises about two dozen states of different categories. According to the Indian Constitution these States have been divided into A, B and C clauses. So far as the Jammu and Kashmir State is concerned, though it has been put in the B class there is no other State which enjoys similar constitutional status. Under Section 370 of the Indian Constitution our State has been granted a special position in short, this State like other States has acceded to India in respect of External Affairs, Defence and Communications but it enjoys other States has acceded to India in respect of External Affairs, Defence and Communications, but it enjoys full autonomy with regard to all other matters according to Indian Constitution and can shape its own destiny through its own Constituent Assembly. Such a status for Kashmir is a matter of pride for us and in this respect this State will be a State which will be rightly not only proud of itself but will also serve as a model for the whole of India. Today if we are electing members for the Indian Parliament from this State it is in consequence of that very status. Such steps are going to make the position of the State invulnerable and forge stronger links between India and Kashmir. The enemies of India and Kashmir will find in our country a strong wall and dismayed to break it. They will finally have to give up their sordid attempts. As far as these ten honourable members are concerned whose names I have read out in my resolution their qualities are manifold, but I want to draw your attention to a few of their virtues. Out of these members three happen to be members of the National Conference Working Committee, and three Hon'ble Members have occupied the highest position in the State and even adorned the ministerial chairs. Three of them viz. Hon'ble Mohd Sayeed, Sardar Budh Singh and Choudhary Mohd. Shafi hail from the enemy occupied territory, across the cease fire line and four of Hon'ble Members are from outside the National Conference. As far as the Council of State is concerned, it is necessary to elect such members who enjoy high social status and have taken active part in the administration of the State. The foremost among them is Sardar Budh Singh who is so intimately connected with the affairs

of the State that he is well known all over the State. The people of Jammu and Kashmir hold him in great regard and reverence. It is clear to everybody that Sardar Budh Singh has had much experience in the administration of our State. He has served the State in many capacities; his official position ranging from that of the smallest official to that of the highest i.e. the Minister. He has done much work in the administrative sphere. As regards the service of the people he has taken a very prominent part in the country's fight for freedom. It was its service, peregrine prison cells to it. He was the first to raise the slogan of freedom (cheers).

When in 1931 our freedom movement gained strength, Sardar Budh Singh in spite of his old age, continued to fight for freedom like a fearless soldier and there is not a single prison in the State where he was not confined. In view of his respectability, experience and political standing Sardar Budh Singh is the fittest person to represent us in the Council of States (cheers).

The second name that I have proposed is that of Col. Pir Mohd Khan. He comes of a very respectable family of the State. The sacrifices made and the good work done by his family in the State is known to all. He has also been connected with the social uplift of the people of the State and has taken a keen interest in this work. His family has served the State in many ways. By virtue of his meritorious services and sincerity he rose to the position of a Colonel from the post of a mere soldier. And when he retired his service to the State did not in fact come to an end but he continued to serve the State in different capacities. The specific object of his interest has been educational reform and he has taken considerable interest in children's education. He has been President of the Anjuman-i-Islamia of Jammu. Even the people of Kashmir are well aware of the services rendered by him. When in 1947 the people of Kashmir were put to a severe test with very tragic consequences, Colonel Sahib plunged into the field with which he tried to stop communal carnage in Jammu and bring the situation under control is known to the whole of Jammu. At that time when terror reigned supreme on every side he stayed there undaunted and extinguished the communal fire. Now you can yourself guess as to what is the proper estimation of

his service. When I took the reigns of Government in my hands he played a great part in our administration by running the Education Department and the ability with which he shouldered this responsibility is known to all. It is because of these considerations that I have proposed his name. His experience, loyalty and social position with which you are well acquainted, warrant such a decision on our part. He being a member of the Council of States is a thing we should feel proud of.

The third name that I have proposed is that of R.B. Pt. Anant Ram. He is a familiar name throughout the State. The services rendered by him during his official career is evident to everybody. During the long tenure of his office he worked in various capacities and through ability and honesty attained a high position in the State. He was the Revenue Minister for a number of years. Very few officers are fortunate enough to maintain their prestige so consistently that the people should look up to them with the same respect, regard and love even after their retirement from service. And he is such a person at the time when the people of the State were fighting the whole Government machinery it was he alone from among the big officials who won the hearts of the people of every section in the State. His gentle manliness and honesty was acknowledged by everybody. Even now the society look upon him with great reverence. I think such a revered person in view of his social position is a suitable candidate to deserve the privilege of representing the Jammu and Kashmir State in the Council of States (Cheers).

The fourth name I have proposed is that of Aga Sayeed Mohammad Shah Jalali. He is a member of our Assembly. You know that he is the worthy son of that venerable person who made great sacrifice for the sake of our freedom movement. Who in the State does not know the name of Aga Sayed Mohammad Hussain Shah Jalali? The reputation that his family enjoys among the Shias particularly and among the Muslims generally is very great. Aga Syed Mohammad Shah Jalali is a section of that family and a worthy son of Aga Syed Hussain Shah Jalali. His social position is very high. This House has got unbreakable link with his family. His political and social position and his devotion

to the cause of the country demand that his name be proposed for representing Jammu and Kashmir in the Council of States (Cheers).

I hope that the proposal put forth by me proposing the names of the four representatives for the Council of States from Jammu and Kashmir will be accepted by the House. As far as the House of the people is concerned, it is clear to everybody that the work there is of a difficult nature. In this behalf we have to depute as far as possible young element to represent us as element that has the honour of the country at heart and burns with a desire for freedom and is prepared to sacrifice it all for the sake of the motherland. Among the names proposed by me in this connection the foremost is that of Maulana Mohammad Sayeed Masoodi (cheers). Maulana Syeed represented Kashmir in the House of the people before also and we are well aware of the excellence and serenity with which he presented the Kashmir point of view in the Indian Parliament. Besides the achievements of Maulana Syeed are as clear as daylight. From the political standpoint he has rendered valuable services to the country. The misfortune that befell his family during 1947 is a matter of common knowledge. There is non who does not know that he is living as a refugee. The whole of his household lies under enemy occupation. He endured many hardships and in spite of all these sufferings he is busy in the service of the country. He is conversant with all political ups and downs of our country. In my opinion there is no person more suitable to represent this State in the House of the people. It is in view of these considerations that I have proposed the name of Maulana Mohammad Syeed.

The other name that I have proposed is that of Major Lachman Singh Charak. He is the worthy son of Chauderi Chattar Singh Charak. The status of his family as always been high in the State and even at present this family enjoys a very high position among the Rajput families. They have had very close relations with the Royal family. In spite of this you will be surprised to know that his deceased father, who was a member of the late Praja Sabha, supported our part, the then Muslim Conference a party that fought the Government in the Assembly, when they had to oppose a bill that the Government tried to get passed in the Assembly. And he did so at a time when everybody shook with fear

to utter even a word against the Government. Chattar Singh supported as unmindful of his close relations with the Royal family. He overlooked all these considerations. He found truth in our demands and extended its support. The same blood is running through the veins of Major Lachman Singh Charak. I have always marked that he is a young man with a capacity to work. He followed his father in the Praja Sabha and the ability with which he discharged his duties there is known to us. Whenever any calamity befell our motherland he was always found ready to contribute his mite to face the ordeal. I think young men with such a family history and a desire to serve their country should be encouraged to steer the ship of our motherland so that they lend us their support. It is therefore that I have proposed his name.

Third name is that of Sufi Mohammad Akbar. The House is familiar with this name. He is known throughout the length and breadth of the country. He stood always in the vanguard of the freedom movement and attained the highest position in our organization. Even at present he a member of the National Conference Working Committee and President of the National Conference Committee of the Northern District of Baramulla and Sopore. He is a popular figure of his District. During his absence from the District, everybody there feel like an orphan. He has carved out a place for himself in the hearts of the people by his sacrifices and services to the country.

The presence of such people in the House as are conversant with all the circumstances and political changes and can put for the correctly the point of view of the Kashmiri people in the Indian Parliament and make it known to the world through it, is essential.

The fourth name is that of Pt. Shiv Narain Fotedar. I think he is too widely known to require any introduction. In 1961 when our freedom movement took shape, he played a prominent role in Kashmir Politics. He has had the proud privilege of leading a very big section of Kashmiri Hindus. He worked to safeguard their interest. Then the conditions changed and the political situation took a new turn. In 1938 the National Conference was set up and a conflict between nationalism and communalism ensured. The national movement gained

strength day by day. Notwithstanding the fact that Pt. Shiv Narain Fotedar was leader of the communal organization. He made correct appraisal of the political situation. In 1947 he was put the greatest test of his life. The Qabailis raided Kashmir and Muslim communalism conflagration caught Jammu in its flames. It seemed as if the whole of Kashmir would be consumed by it. But it must be admitted that the people of Kashmir put their trust in the National Conference and despite provocations they did not deflect from the right path. If they would get derailed, the situation would have been far from peaceful. Many people know that the then Government tried to get Rashtriya Sewak Sang people to the cantonment and distribute rifles and ammunition among them.

It was not their purpose to guard the people and establish peace but to create the same conditions in Kashmir as they had created in Jammu. To achieve this objective they required the help of Pt. Shiv Narain Fotedar and so he was summoned. He was told to take as many rifles and much ammunition as he liked to safeguard his people. If Mr. Fotedar had adopted the same course as was followed by some people in Jammu at the time it would have proved disastrous not only for the minority community in Kashmir but for the majority community as well. The State of J&K would present a different picture than the one you witness today. But Mr. Fotedar acted wisely and his answer to them was "Gentlemen you are misleading the country. Kashmir is our motherland and we have to live here and even our children shall live here in the time to come. No benefit will accrue to the country from your wrong policies. I am not at all prepared for such a job. I do not want to persuade the young men of my country to treat this wrong path". He thus flatly refused to do their bidding. And then he came to us and warned us of the dangers ahead. I think this is a great credit which goes to him. It was an occasion when the Government tried to provoke a leader of the minority community, but he maintained his mental balance. There were other occasions when communalist leaders, defeated and counted in India, chose Kashmir as a sphere of their activities. Several of them came to Kashmir and contacted Mr. Fotedar. But he minced no words and told them not to interfere in our internal affairs. He was in no case going to embrace communalism. Perhaps there are

very few people who know that Mr. Fotedar played such a role in Kashmir Politics. But it is our duty to watch and study the activities of every friend and then make a proper and correct estimation of his personality. After a new era was ushered in for the State politics. India and Kashmir did not remain safe any more as breeding place for communalism. Mr. Fotedar declared unequivocally that he agreed with the National Conference completely. He asked the communalists to give up interfering in the State politics once for all. There was no place for communalism in Kashmir, he affirmed. The politics of the National Conference were going ahead, Mr. Fotedar decided that all political matters should be in the hands of one party only, in whose ranks we could defend the honour and independence of our motherland and ensure a happy life for ourselves. With this purpose in mind, he dis-handled the Kashmiri Pandit Yuvak Sabha and declared that he had no connections whatsoever with any communal organization. Besides, he stated that communalism had no place not only in Kashmir but in the whole of India and that we should rally round a single banner. And then the people of this country he said, would be able to defend their motherland and overcome difficulties.

So far as the social position and the political activities of Mr. Shiv Narain Fotedar are concerned, they are well known. In spite of the fact that he was not connected with us in the past, when the occasion to propose these names in the House came, I weighed all considerations in my mind and came to the conclusion that I should provide opportunities to those friends also who have tried to lead the country on right lines and to whom her cause is dear. It is, therefore, that I have proposed his name for the membership of the House of the people.

The fifth name in the list of Chaudhari Moh'd Shafi. He is well known all over the State. He has been reduced to the status of a refugee at present. He hails from Bhimber, an illaqa which is under enemy occupation. At the time of raids he was there and the enemy imprisoned him. For a long time he was kept in Lahore Jail. He had to suffer hard and then somehow we succeeded to get him over to this side. His activities in our political movement are too well known to need any formal reiteration. He served his country and his people like a brave

soldier. All the misfortunes that befell his family during this period did not shake him. During the last elections in India the splendid work done by him in fighting communalism has made him so popular with the Indian people as nobody among us is. He has taken a very prominent part in carrying forward the principles and ideals on which our organization, the National Conference, is based. His name too is a suitable name in a list of those I have proposed for the House of the people.

Then follows the name of Khawaja Ghulam Qadir. He is an honourable member of our Constituent Assembly. He has been working within the freedom movement of the country since its inception i.e. for 20 years continuously. Whenever the National Conference had to face any ordeals or repression he stood firm by it. Later when in 1947 raiders from Pakistan attacked our frontier illaqa and Ladakh, he was the person who guided the Indian forces sent to fight them and under a rain of bullets from the enemy advanced to implant the banner of freedom at Kargil. Once Major General Thimaya himself told me that it was because of Khawaja Ghulam Qadir that they had crossed the Zojila Pass. Had not he been with them, he said to cross Zojila would have been very difficult. He also admitted that the success they had achieved there was due to him and that Ladakh and Zaskar too were clear of the small enemy groups with his help. He showed keen intelligence in rehabilitating the areas where destruction and devastation has been wrought by the enemy. The administration of Ladakh was entrusted to him and he discharged his duties in this capacity for several years. Those friends who ever got a chance to go to Ladakh in connection with their service know well the difficult and impassable terrain of Ladakh situated at an altitude of 11 ½ thousand feet above sea level. At the time when he took over the administration of the area he found the people in the slush of misery and suffering. He faced the difficulties with great courage and ability and discreetly set the whole situation right. A state of chaos and confusion was replaced by a new order that is well known to you. He is conversant with all the vicissitudes of our country's for the last 20 years. Nobody is unaware of his contribution to the freedom struggle of the country. He is a Youngman and it is our duty to provide

him with opportunities as we can not find a better man. He should be given a chance to go to the House of the people where he can speak of our country with vigor and confidence. Sir, these in short are a few considerations on the basis of which I would venture to propose to the House the names of the persons who should represent us in the Council of State, and the House of the People, I hope that in view of the observations made in my speech the House will honour me by adopting my resolution.

I read out the resolution again:-

“This Assembly proposes the names of the following persons for being chosen as representatives of the State of Jammu and Kashmir in the two Houses of the Parliament of India and authorizes the Government of Jammu and Kashmir to make a recommendation to the President of the Indian Republic in accordance therewith:

Council of States:

1. S.Budh Singh,
- 2.Col. Pir Moh’d Khan,
3. Rai Bahadur Pt. Anant Ram,
4. Aga Syed Mohammad Shah Jalali

House of the People:

1. Maulana Moh’d Saeed Massodi,
2. Major Lachman Singh Charak,
3. Sofi Moh’d Akbar,
4. Pt. Shiv Narain Fotedar
5. Ch. Moh’d Shafi,
6. Kh. Ghulam Qadir.”

(C h e e r s)

Hon’ble G.L Dogra (Finance Minister) Sir, it is possible that some members of the House may have different opinions about the persons selected from inside and outside this House and included in the list put before the House by Sher-i-Kashmir. But we should be contented now when Sheri-i-Kashmir has

told us that he has weighed all considerations. Perhaps some of the Hon'ble Members may think that Qaid-i-Azam has included in the list men from within as well as without the organization. They may think also that there were other persons in the organization who would make good legislators and should have been put on the list. My submission is that the list of venerable persons put before the House by Sher-i-Kashmir comprises the most suitable men. We are proud that our old organization has been struggling in the interests of the people and will continue to do so in future also. I like to draw the attention of the House to the announcement made by Qaid-i-Azam as Head of the Emergency administration which said, "Our country is in great danger and we should defend her. It is duty of all people especially those who regard this country as their motherland that they should give up all their prejudices and come forward to defend and reconstruct the country. Service of any group that lends us their support in this task will not be overlooked".

It was not then alone that such a declaration was made. The Qaid-i-Azam has reiterated this policy many a time since we have been trying to take our country forward on the road to progress and through unity and mutual co-operation have succeeded in our object to a great extent. Our revered leader Sher-i-Kashmir has in view of his declaration presented this list before the House. The Qaid-i-Azam has amply enumerated before the House all the outstanding merits of those respectable friends whose names have been brought on the list. I do not think it necessary to go into any more details in this connection. May be some of the friends think that some of the representatives we are sending into the two Houses of the Parliament may turn sides. But I would like to tell these friends that the Leader of House has considered all these aspects of the question and has only then put the list before the House. Therefore, no body need have any fears on this score. Even, If any, such thing happens, why should we be afraid of it long before it happens. We have learnt to face hardships, if anybody consciously or unconsciously creates any difficulty, it does not matter. When we do not fight shy of thousands of difficulties, cannot we face a little more trouble also. At that time the people will admit that the declared

policy of the National Conference, its Government and its leader has been carried out successfully, the National Conference has triumphed, and failure has been the lot of somebody else, not of the National Conference.

Hon'ble S.L. Saraf (Health Minister): Sir, I have taken the floor to further support the resolution moved by the Hon'ble Leader of the House and already supported by my Hon'ble friend. Mr. Dogra the names proposed by the Qaid-i-Azam as representatives from this State are suitable from every point of view. Every one of these respectable friends is conversant with all the conditions obtaining in our State. Some of them are experts on the subjects in respects of which we have acceded to India. So one may prove a great asset in regard to the question of communications. So far as the question of Defence is concerned there are friends among them who have not taken a prominent part in our war but have fought shoulder to shoulder with great generals who have contributed in no less a measure to the victory we have achieved, in respect of foreign affairs. I would venture to say that we cannot get a more suitable person than Maulana Moh'd Sayeed. During the last two years he has rendered his best services to the country as a member of the Indian Parliament. The way in which he worked on the Select Committees there is a source of pride not only to our State but for the whole of India. The representative that the Qaid-i-Azam has proposed to represent this State in the Indian Parliament are excellently suitable. With these words I support the resolution.

Kh. Abdul Gani Trali:- Sir, I have taken the floor of the House to support the resolution moved by the Qaid-i-Azam. My opinion is that the selection made by the Qaid-i-Azam has been very suitable and excellent. I am confident that all these worthy sons of the soil will bring honour to their country and to this House. They are among the eminent personalities of the land. With these words I support the resolution.

Shrimati Ishra Devi Maini:- Sir, I strongly support the resolution moved by the Qaid-i-Azam proposing names of the best persons from the State for membership of the Indian Parliament. And at the same time I congratulate the House also (cheers). Because when such noteworthy personalities are returned

to the Parliament of India the people of the world will come to know that our country has produced such youths as have devoted their lives to the cause of their country's good. Henceforth this Tiyaq Murti Sardar Budh Singh is proceeding onwards to India with a view to serve his country for the benefit of the nation and to eradicate the evils from our land. I know Masoodi Sahib very well. He is the pride of this House. But his return to the Parliament is essential, though the House will be deprived of this ornament. What a fortune people they are who will get the benefit of his speeches henceforth (cheers). Our friend who lived as a refugee in Lahore, endured great hardships. We have not forgotten it, I do not remember the name of the friend.

Note: A voice- He is Mr. Mohd. Shafi.

Yes, when we went to the Punjab, we saw that he had cordial relation with all parties. All those who would hear his speeches would feel encouraged and come to us (cheers). So I congratulate the House for returning him to the Parliament. And again I congratulate you for the foundation that you are laying today for this new edifice. Our representatives are proceeding to India via Pathankot. I congratulate the inhabitants of Pathankot as this place services a link between India and Kashmir. With these words I support the resolution (cheers).

Shri Koshak Bakola: Sir, I strongly support the motion resolution moved by the Leader of the House. At the same time I feel that the Qaid-i-Azam has particularly kept in view the desires and ambitions of the Kashmiri people by sending these worthy personalities to the Indian Parliament. Kashmir was called a garden and paradise. But today it is not only a beautiful garden but has assumed international importance. It is a political power now. As Kashmir will naturally become a subject of discussion frequently in the Indian Parliament, it is essential that representatives from our State should safeguard our interests with dignity and discretion and maintain the independence of our country amidst the present international conflicts. The Kashmiri people are pledged to free themselves from the yoke of slavery. Through India we want to tell the whole world that our political and economic system is founded on fair aspirations and equality. And even if all the forces of evil and tyranny in the world are ranged against us, ultimately it is

we who shall be victorious. It will be so because welfare of the people and equality are the basic principles of our struggle. At the same time I feel that Qaid-i-Azam has kept in view Indian history of the last few years while making these nominations. Kashmir had acceded to India constitutionally. This link is not of a recent origin. Cultural relations between India and Kashmir have been established for several years now. We hope that still stronger links will be forged through the good offices of the members nominated by this House. During the course of the Kashmir Freedom Movement, the Indian National Congress always valued our ideals. When to strike at the very roots of the autocratic rule, the State shaking slogan of "Quit Kashmir" was raised, Gandhiji left all his engagements and came here to rescue our movement. Today we feel proud and happy on the fact we are preserving and strengthening these objects and ideals that this great personality of the world held dear and for which he came to our motherland. We are sending our representatives to the Indian Parliament of Gandhi's and Nehru's India.

The most important fact is that Kashmir enjoys a special status in the Indian Constitution particularly in view of the glorious democratic ideals that the people of Kashmir have set before the Indian people. Kashmir has acquired a special and tremendous importance. Except the three subjects in respect of which we have acceded to India. Kashmir enjoys full autonomy in all other matters. It is the first and foremost duty of the members nominated by Sher-i-Kashmir in his resolution to safeguard our rights in the Indian Parliament and always to keep it in their minds that we should progress under their leadership. With these words I support the resolution moved by Sher-i-Kashmir.

Shri Koshak Bakola: Sir, I strongly support the resolution moved by Qaid-i-Azam nominating members for the Indian Parliament. I think that these ten representatives are quite suitable as they have rendered meritorious services to the country and its people in the freedom movement and during the raids. I believe that these respectable representatives will strengthen the ties of friendship between India and Kashmir when they go to the Indian Parliament. Besides, I may point out that the people of Ladakh and Kargil are desirous of

seeing their relations becoming pleasant and stronger with India. Therefore, I pray that all our aspirations concerning our accession to India may be realized (cheers).

Kh. Abdul Gani Goni: Mr. President, it gives me a great pleasure to -----

Hakim Habibullah: Point or order Sir, he should speak in Urdu.

Kh. Abdul Gani Goni: Alright Sir, it gives me extreme pleasure to support the resolution through which this House, is proposing to send its representatives to the Council of States and the House of the people. I think the Leader of the House has proposed the names of the brains in our State and this House has full confidence in them. Today a new chapter is being written in the history of the State. Today a resolution has been moved in the House to send new representatives to replace those who have represented us for the last two years in the Indian Parliament. I confidently hope that all over ten representatives will shine like stars in the Council of States and the House of the People. It is through them that the message of Sher-i-Kashmir, who has broken the chains of our slavery and raised us to a level where we are able to envisage our future will be carried to the corners of India. These members will not only represent us there but will expose the cause of the rest of India by their constructive programme. With these words I support the resolution. I congratulate you and assure you that they will bring honour to the Jammu and Kashmir State.

Mahasha Nahar Singh: Sir, the resolution moved by Sher-i-Kashmir is really glorious. It includes the names of those men who have rendered great services to the country and have occupied high posts in the State. There are among them men who have come into the fold of the National Conference and also persons who never owed allegiance to this organization. They too have been encouraged. I regret to say that except Harijans every other community has been given representation through they have whole heartedly supported the National Conference. This is the one defect. I can see in the resolution. Muslims have got six seats. Brahmans two, Rajput one and Sikh one. Only the Harijans have been deprived of their representation. Attempts are being made to satisfy us by saying that resolution has been sponsored by the National Conference. It is this

community that has worked in the National Conference. I would like to bring this fact to the notice of the Hon'ble Leader of the House that the total population of Harijans in the State comes to more than 4 ½ lakhs and if this community has been ignored is it because it is backward community and has always supported the National Conference. Had this community not associated itself with the National Conference, I believe they too would have got separate representation.

Nobody is unaware of the sacrifices made by Maulana Mohd. Saeed. Similarly sacrifices of Chaudhari Mohd Shafi are well known. The whole thing would be flawless if only one Harijan had been included among these ten persons.

Hakim Habibullah:- Point of order, Sir, is the Hon'ble Member speaking for or against the resolution?

Hon'ble President:- This is not a point of order. The Hon'ble Member is speaking in favour of the resolution.

Mahasha Nahar Singh: I am speaking in favour of the motion. There goes a story that a certain person had brought up a cat. His servant once broke its leg and it became lame. The servant thought that if the cat goes to the master and complaints to him, he would be angry with him. He asked the cat to forgive him. The cat told him that it would of course forgive him but its broken leg would betray all that had happened. So I say when our friends go to the Indian Parliament the MPs there will certainly feel the absence of a Harijan representative from the State.

Hon'ble M.A. Beg: But our cat has not a broken leg (laughter).

Mahasha Nahar Singh: We have to support the resolution moved by Sher-i-Kashmir, because he is our leader. We cannot live without him. The population of Harijans is four and a half lakhs and they will always support the National Conference. My only submission is that if only one Harijan had been put on the list, the representation would have been complete.

Hon'ble Kh. Mubarik Shah (Deputy Finance Minister) : Sir, I support the resolution moved by the learned mover proposing names of our able friends for the Indian Parliament. All of them have fought in the advance guard of the

freedom struggle of our country and people. Their valour and fortitude will be inscribed in letters of gold in the history of our freedom movement. Every one of them enjoys an important position in the social, political and cultural life of the country. At the present juncture when we are passing through the most critical period of our national history and our enemies are spread all over the wide world, we have to exercise every caution. In view of the solution of the question of our life and death it is extremely essential that we present such gems in the Indian Parliament as would be an object of envy for the whole world. We should hope that our representative will teach a gospel of love in the Indian Parliament. Today as the learned mover presented these names. The past history of Kashmir of several centuries flashed before my eyes. I could see thousands of dying on the hills of Gilgit. The Mughal, Singh and Dogra tyranny perpetrated on the People of Kashmir to my mind in all its grim nakedness. All the same time my mind recalled that historical occasion when in 1946 Sher-i-Kashmir declared that political, economic and cultural relations could not be established except in accordance with the free will of the people as the sovereignty belonged to them. Since 1947 our relations with India have grown natural. Now to strengthen our link with India and to guarantee the freedom and progress of our country and our people we have seen our representatives to the Indian Parliament. In this behalf the respectable personages nominated by the learned mover are eminently suitable for the job. About Maulana Sahib, I would venture to say that his that great leader who has made invaluable sacrifices. I think he is not only a name in the history of our freedom struggle but constitutes important chapter by himself. The rest of the respected persons are all well suited to represent our country and culture. I would like to make a submission to my friend who took the floor before me.

The answer to his remarks is our economy and culture are one and our political outlook too is one. I would like to say that our freedom struggle had a single goal for the achievement of which love and concord played a prominent part. The persons selected by Sher-i-Kashmir as our representatives, I hope will contribute fully towards the political and cultural progress of our people by

espousing the cause of this country. I hope they will lead our country in a manner that guarantees our freedom and ensures our progress.

***Maulvi Mohammad Ibrahim Shah:-** Sir, the people of Ladakh and Kargil were not used to meetings and processions. They were not even used to speeches. It is because of Sher-i-Kashmir that we have learnt to hold meetings and make speeches during the last two years. The people of Kargil and Ladakh, Muslims, Budhists, Sikh and Hindus, all lived in friendship. Their relations were so deep that when some of the Hindu and Sikh shop-keepers fled away at the time of India's division the local Muslims actually wept. Our people live in quite harmony. The whole world is progressing and no progress is possible without education, the Qaid-i-Azam has made special arrangements for education for us and the people of Kargil will never forget this good done to them. Speak as I do in Persian. I cannot make myself quite clear to you but, all the same, I assure you that all the people of Kargil are with Sher-i-Kashmir. With these words I congratulate the House upon the election of members for the Indian Parliament.

Mr.Sagar Singh: Sir, today is a memorable day in the history of the State. By sending our representatives to the Indian Parliament we have forged a new link in our relation with India. It is four years since we established our relations with India. But certain elements would say that this was only a decision of a party. But today the representatives of the people have confirmed this decision and have clearly indicated the mood of the people. This step has strengthened the relations between India and Kashmir and no power of the world can break it now. This way in which the election has been made testifies to the fact that the National Conference does not like to grab every kind of office for its adherents only but wants to benefit from other experienced people also Sher-i-Kashmir has also stated this policy of the National Conference. I hope that our members for the Parliament will fully present our point of view and will discharge their duties with full responsibility. With these words, I support the resolution and congratulate the members nominated for the Indian Parliament (cheers).

Mr. Hem Raj Jandial: Sir, the State had acceded to India but the Kashmir question is still pending before the United Nations Organization. It was necessary

to send our representatives to the Indian Parliament to make our voice felt regarding Kashmir question and the subjects in respect of which we have acceded to India. As these representatives are expected to give a lead to the country and the nation it is essential that they should be seasoned politicians, conversant with the problems of the land and having the interests of the nation at heart. All the persons whose names have been proposed for election to the Indian Parliament are veterans with great experience. I will recount some of the salient features of this proposed list of the candidates. Firstly, it includes persons from every part of the Jammu and Kashmir State. If on the one hand a representative from the far-flung Ganderbal has been included on the other, we find on it an old experienced man like Rai Bhadur Anant Ram representing the Dogra inhabited areas. The representation has not been confined to any particular element. I am convinced that these representatives will prove themselves worthy of the trust reposed in them by the country through this House. Let it serve as a proof of my conviction that Maulana Mohd. Saeed has already shown his mettle as a Parliamentarian. He placed the view point of the Kashmir people before the Indian parliament in such a way that not only the newspapers of India but Pt. Jawahar Lal Nehru himself congratulated him. He was called as the authentic voice of Kashmir. Similarly Chaudhary Mohammad Shafi is a person whose sacrifices are well known not only in Kashmir but in many parts of India as well. During his tour of India when he explained the view point of Kashmir to the Indian people, they would flock to hear him. His ability and patriotism do not require any publicity. Therefore, with these words, expecting the members to represent the true feelings of Kashmir people and welcoming this election, I support the resolution.

Sardar Harbans Singh Azad:- Sir, I support the resolution moved by the Leader of the House proposing the name of the representatives of the State for the Lower and the Upper House of the Indian Parliament. The resolution has been prepared after enough consideration and due deliberation. I congratulate the mover for this. If the National Conference had to decide matter, it would, in accordance with its policy, send able man from its fold to represent correctly the

policy of Kashmir in the Council of State and the House of the people. The National Conference did not make any decision. The Leader of the House has after much deliberation put forth this resolution to get it adopted by the House. It is our desire that our representative to the Indian Parliament must carry forward our freedom movement and keep aloft the torch of unity that is Kashmir. The ray of light that Kashmir seemed to Gandhi ji must be converted into a flood light. Today's election is above all considerations of provincialism. It has been conducted keeping in view the best interests of the country. It has not been done in pursuance of any surreptitious policy nor does any question of sectional or communal representation arise. If we base our decision in respect of such elections upon these considerations, we will be confronted with many hardships and our objectives will get a set back. I congratulate the Leader of the House that he has shown his broad mindedness and enhanced the prestige of the National Conference by his relation. It is on the recommendation of this House that the President of the Indian Republic will nominate the proposed persons for the membership of the Indian Parliament. Last time the nomination was made on the recommendation of the Jammu and Kashmir Government but this time it is being made on the recommendation of the Constituent Assembly elected by the people. This is a step forward towards democracy. All the members of the House own their allegiance to the National Conference party and if it is liked it would send all the representatives from its own party. And rightly as prudence demanded, it has not done so. Some people say that the National Conference in power, has shown narrow mindedness. To select some prominent persons from without the party is a right step supporting the resolution. I congratulate the Leader of the House upon having moved it.

Mr. Ram Lal: Sir, enough light has been thrown on the lives of those Hon'ble members whose names were proposed by Sher-i-Kashmir in his resolution. They will, with love and feeling present in a practical shape Gandhi Ji's programme in the Indian Parliament. They will be the true representatives of that sentiment which was expressed by Gandhiji in the following words:-

“In the all-round darkness I can see a ray of light coming from Kashmir only” (cheers).

With these words I strongly support resolution.

Hon’ble G.M.Sadiq (President): If the Hon’ble mover wants to speak, he may do so.

Hon’ble S.M. Abdullah: Sir, I am deeply thankful to the House for having extended its support to the resolution moved by me. Only my friend Mr. Nahar Singh while supporting the resolution has drawn my attention to the fact no consideration has been given to the representation of Harijans in the resolution.

He has said that while I have kept in view Sikhs, Dogra, Rajputs, Brahmins and others, I have ignored Harijans though they form a major part of the State’s population. If you recollect my speech you will find that I have not said that these names were proposed by me because they belonged to Rajput, Brahmin, Chaudhary or to some other sect, instead I put before the House their social position, their political role and their experience in the administrative sphere of the country and on this basis expressed my opinion that they were suitable men for the Indian Parliament. It is difficult for me to see the proportion of the population community-wise and dole out representation accordingly. Unfortunately, where on the one hand religious and communal fanaticism held its way for a long time over India and was responsible for centuries of bondage, on the other hand concomitantly a new fanaticism grew. If every Indian reflects he will realize that it were the internal weaknesses of our society which made it possible for such a big country to be dominated by the foreigners. Apart from religious and communal discord weakness of the Indian society was its sectarianism. Even today the biggest leader of India Pt. Jawahar Lal Nehru, lays great stress upon the fact that so long as Indians do not get rid of the evil of sectarianism they cannot make any advance in the field of progress. It is true that a large section of the people in India was very backward. But it was so under the British domination which has been now done away with. We must forget the past and should not claim any share because of being Harijans. It is an anachronism

to think on such lines and make such demands in a free India. To say that we are Harijans and should get our share as such behaves slaves only. Tomorrow Sikhs will make a similar demand and various sects of Muslims will claim separate shares. I had to nominate ten persons only and how could I add an eleventh. When I made these nominations I kept in view the country as a whole. Besides, I had to consider the sacrifices made by our countrymen. Having considered these important aspects and after paying due attention to all these matters. I have proposed these names and I am confident that they will represent our country in the best way possible, in the Indian Parliament. I assure Mr. Nahar Singh that we never think that a certain person belongs to a certain sect. In our State Hindus, Muslims and Harijans enjoy equal status. As far as the complaint of the Hon'ble Member from Kargil is concerned that his illaqa is backward educationally, I assure him that we will soon get a chance when we shall state what arrangement are being made and shall be for educational advancement of that illaqa with these words I think the House again for having supported my resolution unanimously.

Note: The Resolution was put to the House and adopted unanimously.

Note: The clock struck one and the House adjourned till 3 p.m.

Hon'ble G.M. Sadiq (President): As the Leader of the House is not present in the House, I request Mr. M.A. Beg that he should move item No.4 on the order of the Day.

Hon'ble M.A. Beg (Revenue Minister): Sir, I presented the report of the Committee for Rules of Procedure before the House the other day moved that this be taken into consideration. If thereafter, any amendment is proposed, I shall rise to make my reply.

Maulana Mohammad Saeed:- Sir, before the business of the House continues, I seek your permission to make a submission to you. It is that the Rules have been presented to us in the form of an act. But the Committee had been formed for presenting a report only regarding Rules. Would not it have been correct for the Committee to present a report and after discussing the same to put it before the House in the form of a bill and after passing through necessary stages, it would

become an act. Only in this way would the rules be completed after due deliberation and be expected to guide us correctly. I am afraid that because of the way the Rules are being presented these will do harm instead of guiding us. With these words, I put forth my objection.

Hon'ble G.M.Sadiq (President): The Hon'ble Member knows that a Committee was set up in November last to frame the Rules and subsequently a sub-committee was formed. The sub-committee submitted its report to the committee and the Rules have been discussed twice. And if the Hon'ble Member wants that the House should be given more opportunity for consideration of the same, I will consider it. If he means something else, let him explain himself.

Maulana Mohammad Saeed: Sir, I shall explain my point. I mean that it is a motion to be taken into consideration. I think that unless it is presented to the House in the form of a regular bill, it cannot become an act if such a procedure is not followed, it will be inconsistent with law making. If it is to be taken as a report of the Committee than I have no objection. But if it is meant that these Rules have become regular law than the very purpose for which they were prepared is lost.

Hon'ble M.A. Beg (Revenue Minister): Sir, the Committee that was set up during the last session and was entrusted with the task of framing a draft of the Rule of Procedure for the Constituent Assembly and you were the Chairman of the Committee. The Committee held several sittings and after discussing different sections a draft was prepared and submitted to the Hon'ble President together with report. The report was to be presented at any cost in the form of a draft. In the meeting held in this connection the questions pertaining to the resolutions, notices and the election of the president were discussed in the House. It is the report of the Committee. Now it is upto the members of the House to discuss the rules clause or by sets of clauses. It is the discretion of the Hon'ble President to give as much opportunity as he likes.

Maulana Mohammad Saeed: Sir, the point it is not this that enough time be allowed or the report be discussed clause by clause. The report and the bill are two separate things. The report cannot be called the bill and the bill cannot be called report. If the report is adopted, if cannot, according to rules and regulations

become and act. And unless the report has passed through necessary stages it cannot become a bill. The report, after assuming a legal form has to govern the business of the Assembly. Therefore, I suggest that it should be presented in the form of a regular bill.

Hon'ble G.M.Sadiq (President):- I think that some misunderstanding has crept in regarding the question. The point is this that the act under which the House functions is the proclamation made regarding this House and rules have now been framed for the Constituent Assembly and no new act has been promulgated. The objection raised by Maulana Sahab that the report should have been presented to the House in the form of a bill is not valid. I invite the attention of the House to rule No. 24 wherein it is said:-

“The business of the Assembly shall be brought before it or its committees by means of:-

- (a) a motion;
- (b) a report of a Committee;
- (c) an amendment to a motion or an amendment to an amendment”.

In the ways of conducting the business of the House given in section 29 it has been provided that the report of the Committee shall be presented to the House. And this report comprises sections. In this Committee that was appointed by the House has recommended that if the House like to discuss the rules in detail, they can do so taking the rules clause by clause. But in view of the paucity of time it is also correct to take them collectively. There can be no objection to it. Otherwise, if the members have moved their amendments to some clauses and accordingly the clauses are to be method will in no way prove harmful. I, therefore, think that the point of order raised by Maulana Sahib is valid.

Mr.Abdul Gani Goni: Sir, I want to draw your attention to the fact that in section 29 it has been provided that if the rules of Business are yet to be considered than the procedure has to be governed by rule 25 of the provisional rule.

Hon'ble G.M. Sadiq (President):- Please repeat your point of order.

Mr. Abdul Ghani Goni: Sir, I have referred to the Rules of Business adopted in the session and the business should be conducted in accordance with the same Rules if any motion is to be moved, it should come under section 25.

Hon'ble G.M. Sadiq (President):- I have not been able to follow you. If you mean that the motion moved by Hon'ble Beg come under section 25 what is your objection to it?

Mr. Abdul Ghani Goni: Sir, I have no objection. It is the difference between sections 24 and 25 wherein it has been laid down.

Hon'ble G.M. Sadiq (President):- The rules that any matter should be brought before the House in the form of a bill and whereto attention has been invited by the Hon'ble Member has not been laid down anywhere in section 25. But in rule No. 25 the word mentioned is motion. What is your end and aim?

Mr. Abdul Ghani Goni:- Sir, I said it for your information.

Hon'ble G.M. Sadiq (President):- I thank you for it. Several amendments have been proposed to the motion moved by Hon'ble Beg. Among these the amendment in the name of Kh. Ghulam Rasool Kar. But I have got a chit in which he does not want to move his amendment.

Maulana Mohammad Saeed: Sir, what is that amendment and under what section?

Hon'ble G.M. Sadiq (President): When the Hon'ble Member has withdrawn the amendment there is no need to read it in the House.

Maulana Mohammad Saeed: Sir, when you have made mention of the amendment in the House, it has become the property of the House and the members of the House have a right to know it.

Hon'ble G.M. Sadiq (President): When the amendment has not been moved in the House, the question does not arise. Besides, the Hon'ble Member has a right to withdraw the same at any time. The next amendment is that of Maulana Mohd Anwar Shah he has submitted under clause 3 of section 15, he will move it in the House. Maulana Mohd Anwar Shah: Sir, I move my amendment which runs as follows:-

“In place of the words “the constitutional Advisor of the Government shall work as Constitutional Advisor to the Constituent Assembly the words on the advice of the Constituent Assembly the President shall appoint a special expert as Constitutional Advisor to this Assembly on such salary as may be approved by the Finance Committee shall be substituted.”

Sir, the need to move this amendment has arisen due to the reason that if the Constitutional Advisor is not directly under the President of the Constituent Assembly, he can at any time give such a counsel as is not in the interest of the people. Even admitting that an Advisor is a scholar, an expert and possesses all those qualities which are needed for such a high office, but still it is a fact that he is not in touch with the current affairs, national requirements and the sentiments and aspirations of the people. He may on his own and without the consent of the House give such a counsel as may prove detrimental to the interests of the country. Sir, keeping this in view it was deemed proper that the attention of the House should be drawn to the fact that in future the Constitutional Advisor should be appointed by the Assembly itself. His salary should be fixed by the Hon'ble President on the recommendation of the Finance Committee. It is not considered expedient that a Government Advisor should tender his counsel so high and institution. It is, therefore, I move this amendment.

***Kh. Noor-ud-Din Sufi:** Sir, supporting the amendment moved by Maulana Anwar Shah, I have to submit that it is essential for an independent and important institution to have a Constitutional Advisor of its own. A Government Advisor cannot perform the functions of an independent Advisor. My submission is that the House should take the amendment into consideration and make a decision that the Constitutional Advisor should be appointed by the Assembly and not by the Government.

***Mir Qasim:** Sir, I want to speak against this amendment. It is easy to be sentimental in support of the amendment. But while opposing it, I want to submit that strictly speaking all the points raised by the Hon'ble member in his speech justifying the amendment have been satisfied in the original resolution. In his opinion the greatest danger is that if the Constitutional Advisor of the State is at

the same time the Constitutional Advisor of the State is at the same time the Constitutional Advisor to the Constituent Assembly, he may due to some mental confusion or by way supporting the Government give such a counsel as would not be beneficial for the constitution making body. But this is a remote possibility, for the constitutional Advisor is an Advisor only and he has to give this counsel as an expert. But no expert will give a counsel antagonistic to reality and then his counsel is not binding in all cases.

Sir, if any member considers that the counsel of the Constitutional Advisor is contrary to our principles not only can he reject his counsel but inform the House with his correct opinion.

In the second argument in favour of the amendment it is said that under whose administration control will the Constitutional Advisor remain. It would have been clear to the Hon'ble Mover, had he paid a little attention to rule No.15 wherein it is stated that the "President, that so far as the administrative control under which the Constitutional Advisor has to work is concerned, it shall be that of the President of the Assembly. The President of the Assembly can take suitable action when he thinks that the counsel given by the Constitutional Advisor is unnecessary. It will be directly under the competence of the President of the Assembly to appoint a person to or relinquish him from the Office of the Constitutional Advisor. So it is clear that unnecessary and hypothetical fears have been expressed in the amendment and therefore the amendment is not relevant to the motion. Besides for a contingency when occasions for such fears may arise, provision has been made for taking necessary steps. In other words the Hon'ble members of the House have a right either to accept or reject the counsel. The rules can be amended. When it is not felt necessary to have Constitutional Advisor, the rules can be amended. My second submission is that for the post of the Constitutional Advisor an expert is needed and it is because the services of such experts are not available in the State that such an arrangement had to be made. Otherwise there could be no particular objection to the acceptance of the amendment. But since the objection as well as the amendment is impracticable and the question has been amply and carefully

examined, the amendment is unacceptable. The fear that it may impair the sovereignty of the House is an instance of mentally attempting to draw wrong conclusions from the facts. I oppose the amendment as it is impracticable and frivolous.

Hon'ble G.L. Dogra (Finance Minister): Sir, I want to draw the attention of the House to the amendment put before the House. At the same time I want to analyse it so that it is made clear whether the amendment is acceptable or not. Sir, forgive me if I read out the English version of the amendment for I am not well versed in Urdu.

Note: The following amendment was read out:-

“That for rule 15(3) of the Rules of Procedure the following may be substituted. The Constituent Assembly shall appoint a Constitutional Advisor and the Advisory Branch will work under him”.

The following may be substituted for clause 15(3).

“The President shall on the advice of Jammu and Kashmir Constituent Assembly appoint an expert as Constitutional Advisor on such pay as the Finance Committee may deem fit”.

It has been said in it that the President would on the advice of the Constituent Assembly appoint a special expert as his Constitutional Advisor on such pay as the Finance Committee might deem fit. And according to this amendment the President shall not have final authority with regard to the appointment of the Constitutional Advisor and neither shall he have the power to fix his salary. And I think that such a procedure shall be derogatory to the dignity of the House. We know that in the Indian Constituent Assembly the President had a special Constitutional Advisor. If the Hon'ble Mover had studied the Rules of procedure of the Indian Constituent Assembly, he would have come to know all about the Constitutional Advisor. Therein it is written;

“The Constitutional Advisor shall be appointed by the President of the Assembly”.

It is the Government that has appointed the Advisor to this House. If tomorrow the Government changes their Advisor, he will no longer remain a Advisor to this House. Suppose tomorrow the Government appoints any other person as the Advisor who is not acceptable to this House. In the first instance such a situation will not arise, for the Prime Minister is the Leader of the House also and he will always act in accordance with the wishes of the House. Naturally, therefore, no conflict arises. All the same if we presume, that such a thing does happen so that the House does not accept the Advisor, what will happen? At the time you can change the Rule or cancel it. So far as the present Advisor is concerned I would beg to inform you that he is Judge of the High Court and also an Advisor to the Government. He enjoys a special position in the House. Direct and indirect pressure cannot be brought to bear upon his independent position. I do not, therefore, consider the amendment frivolous even but, objecting to its being unsuitably worded, oppose it.

Maulana Mohd. Saeed: Sir, before you give any decision in respect of the amendment. I would like to say a few words; I mean to say that Hon'ble G.L. Dogra has made a pretty mess of rules, law, disciplinary requirements and personalities. I think if an attempt is made to unravel the tangle all its flimsy threads will break. It was not intended to make any personal attacks. Every member of the House respects the present Constitutional Advisor and nobody denies his ability. The position that the Hon'ble Leader of the House enjoys here or in the Government is acknowledged by one and all. I think injustice is being done to law-making. To tell the truth I cannot see in what way does the freedom of the House suffer, as the Hon'ble G.L. Dogra has said. Hon'ble G.L. Dogra has said that you have to fix the salary of the Advisor and you have to appoint the Committee as well. He has further told us that these are legal points and intelligible to law-knowing people only. My point is simple. If the Advisor to the Government is Advisor to this House also, in whose service will he do? If at any time a conflict of interests occurs between the Government and this House, whom will he support? On such an occasion he will be serving two masters and the following saying will apply to him:-

“We are sailing in two boats”.

The Advisor to the Government will be your Advisor also and so whose orders will be final for him? What will be his position when he is faced with two contradictory directives? Sir, when this Assembly has been given all power and declared a sovereign and independent body how can a person in its service be considered a Government servant? Only two categories fall within its scope, firstly the member of this House elected by the nation and secondly, the employee of the office of this House. Only one exception remains. It is the Constitutional Advisor who is neither a Member of the Assembly nor some official appointed by you. Therefore, I think the Hon'ble members should ponder over the question so that it is discussed thoroughly. It will be advisable to appoint some one on a salary as deviser to the Assembly.

Mr.Ghulam Rasool Kar: Sir, regarding the amendment moved by Hon'ble Maulana Anwar Shah, I have to say that the Government Advisor who have been appointed also as Advisor to the Assembly has neither any right to speak in the House nor any connection with the dignity of the Constituent Assembly that a Government appointed Advisor should interfere with the discussion in the House. He is not allowed to participate in the discussion. His participation in this discussion is conditional on the permission of the President. Even at this time a Constitutional Advisor sitting besides the Hon'ble President. He has not been permitted by the House or the Hon'ble President but a sort of interference is caused in the business of the House whenever he gives any counsel. We know that the Government cannot interfere in the matter of the expenditure of this House. This House is a sovereign and dignified institution. But as Hon'ble G.L. Dogra has told us that when the Government appoints some new person as their Advisor, he automatically becomes the Advisor to the House and the House has got no powers to reject him. From the statement made by Hon'ble G.L. Dogra it is evident that House is not competent to remove the Advisor. So I thank Hon'ble G.L. Dogra too has supported the amendment moved by Maulana Anwar Shah, which I am also supporting.

Mr. Krishen Dev Sethi: Sir, I want to make a short speech on the amendment moved by Maulana Anwar Shah. The amendment is clear. If you pass this clause without the amendment it means nothing except that you snatch away the powers of the Assembly and delegate the same to the Government. Moreover, it is clear from the speech of Hon'ble G.L.Dogra that no powers of the Assembly are being snatched away. What is meant by amendment is that the Assembly should not be divested of any powers in order to vest the same in the Government. Therefore, I appeal to the House through you that they should accept the amendment.

Hon'ble Mubarak Shah:- Sir, I regret to say that a few Hon'ble friends of this House have discussed the question on sentimental basis. Before I say anything regarding the amendment, I want to say something about the need of a Constitutional Advisor.

Maulana Mohd Saeed: Nobody denies the need.

Hon'ble Kh. Mubark Shah:- There is no doubt that nobody denies the need. The need of an Advisor is felt because a new constitution was not of the right sort. Due to changed circumstances we have developed such relations with India and her component States that we require the services of an expert Constitutional Advisor for the House who shall assist us in law making. The Constitutional Advisor must have complete knowledge of the various Constitutions and the state structures of different countries. He must know the tradition of the countries. And we require a Constitutional Advisor so that we may have no difficulties when we have to provide for the new set up. As far as I have been able to understand it the amendment is totally impracticable. The question arises whether this office is to be made elective? The Hon'ble Mover has said in the amendment.

“That the President shall on the advice of the Jammu and Kashmir Constituent Assembly appoint a special expert as Constitutional Advisor on such salary as is proposed by the Finance Committee”.

Does the Hon'ble Mover mean that the Assembly shall invite application from all such expert and then take votes from the members of the House for the election of the Advisor? Then it means that all the members should know

beforehand the educational qualifications and the experience of the candidate so that they can make a right choice. Besides, Maulana Masoodi said that the Constitutional Advisor appointed by the Government has no right to participate in the discussions of the House as nobody other than the members can take part therein. I would, therefore, make a submission to Maulana Masoodi that by being appointed as Constitutional Advisor he cannot become a member of the House. At least he can be, like the Secretary, an employee of the Assembly. Therefore, I have no fears that there will be clash of view between the House and the Constitutional Advisor. I would request the members of the House to reject the amendment.

Hon'ble S.M.Abdullah (Prime Minister):- Sir, citing a well known proverb that any work is properly explained by its author, I would like to submit that the objectives with which the amendment was moved are based on the same fears that were expressed by Hon'ble G.R. Dogra and refused by Maulana Masoodi. If Maulana Masoodi were to move it, he would probably explain his aim in the best manner. But the friend who has moved the amendment, has clearly expressed the same fears to which Hon'ble G.L. Dogra has drawn our attention. The powers that I exercise whether as the Leader of the House or as the Head of the Government, has been vested in me by the confidence of the Hon'ble Members of the House. So long as I enjoy the confidence of the House, I will exercise these powers. But when I lose this confidence, I will neither be prepared nor be constitutional able to accept this position for a second. Notwithstanding Maulana Masoodi's attempt to give the amendment a particular twist, all the members that took the floor to support it unfortunately expressed the same fear that the Hon'ble Mover tried to provoke. A young member of the House, I mean Hon'ble Krishen Dev Sethi said that the present Constitutional Advisor to the Government is at the same time the Constitutional Advisor to the Hon'ble President and he feared that the powers of the Sovereign Assembly may in this way get curtailed by the counsels of the Government Advisor. He means that these powers might not pass into the hands of the Government. He wishes that the independence of the Assembly should be maintained and says that the amendment has been moved

with the same purpose in view. If you think over these words it will be clear to you that the danger is this that if the present Constitutional Advisor of the Government remains as Constitutional Advisor to the Assembly as well, the Government might snatch some powers of the Assembly and that shall reflect on the sovereignty of the Constituent Assembly. I think when the Hon'ble Members express such ideas as they cause a serious reflection not upon me alone but upon my colleagues also who have got their powers from this House. It is unfortunate indeed that the Hon'ble mover and his supporters did not pay any heed to the language they used and were quite oblivious of the far reaching consequences of their speeches. One Hon'ble Member Mr. Ghulam Rasool Kar, said that it was derogatory to the dignity of the House that a Constitutional Advisor should sit in the House, advise the Hon'ble President and interfere in the business of the House. If serious thought is given to these words it will be clear that it is a reflection on the Hon'ble President. It means that the Constitutional Advisor can mislead him by his wrong advice. You may think over it again that it is we all who have bestowed this honour on him in view of his ability and caliber (cheers). Hon'ble Maulana Masoodi warns us against confusing personalities law and rules. No question of personalities, arises. It is a simple constitutional point. The speeches made in support of the amendment are there and the house can well foresee the dangers apprehended. Maulana Masoodi also said that Constituent Assembly is a sovereign institution and that is our foremost duty to maintain its independence. Now it is a really unfortunate if our own activities prove detrimental to its sovereignty. Maulana Masoodi says that Constitutional Advisor serving the Government and the Assembly at the same time will be like a slave serving two masters. He poetically posed the question as to whose orders had he (Constitutional Advisor) to obey of the Government or of the Assembly. I think the question was very simple and there was no need to touch it in poetic language. I want to put things plainly before the Assembly. All powers are vested in the Constituent Assembly. It can keep or remove the present Government as it pleases. It has powers to make or mar the destiny of the country. When the House is invested with such vast powers the ways and means to remove the

difficulties in the way of the country have to be devised. It is a fact that the present Constitutional Advisor of the Assembly is also the Legal Advisor to the Government. But so far as his giving of advice in Constitutional matters is concerned he is subordinate to the Hon'ble President. The Hon'ble President can divest him of his powers. What have the Government done? They have only offered the services of an expert. It is upto the Hon'ble President to utilize or not utilize his services. He has a right to make his own decision. In India the President had been given the same right. This is a very important office and required highest degree of confidence. The post was not such that applications could be invited beforehand; that a committee would be appointed to examine the same that they would submit their recommendations to the House; and then the House would elect someone as the Constitutional Advisor to the President. It would not be proper to make it an elective post. We are appointing such a person to this post whose legal talent, educational qualifications and integrity cannot be challenged by any of the friends here. We offered his services to the Hon'ble President and he accepted the same. He has been giving constitutional advice to the Hon'ble President. Besides he has been very helpful to the Basic Principles Committee and Fundamental Rights and Citizenship Committee whenever constitutional problems confronted them. One of the Committees comprises seventeen or eighteen members and the other eight or nine. The Constitutional Advisor only gives his advice to these committees and the drafts presented to the House are discussed clause by clause. So the Constitutional Advisor has only to give advice to discuss things in the jobs of the committees and the House. Another question posed by Maulana Masoodi is that what will be the position of the Constitutional Advisor when confronted with two contradictory directives. In my opinion such a question does not arise. In view of the financial position of the Government we want that they should have to undergo the minimum expenditure and the requirements too should be fulfilled to our satisfaction. The Hon'ble President knows himself that whenever he needs some person for some temporary post the Government offers the services of a suitable person to discharge the required duties during the session of the Assembly. In this way the

expenditure is curtailed. There is of course no doubt that the Assembly is empowered to expand as much as you like. I am here to execute your decisions. So long as my conscience allows me I shall work. And if the House acts in a way that goes against my conscience I will request the House to relieve me. Nobody should impose himself but all the same the House has to perform its functions. Nobody should hamper its work under cover of an innocent proposal. You have struggled hard to steer this boat up till now and you should not sink it yourselves now. If you want that no reflections should be cast on the Constituent Assembly, and no powers thereof are vested by the Government, then you should shed those doubts and misgivings that have perhaps been created in your minds. You should not prefer your personal good to the good of the country. Despite Maulana Masoodi's attempts to present the matter in different colours, I can well feel the scorch of the flaming speeches of some of the members. At least, I am sensitive enough to feel it and I cannot tolerate it. So long as you have confidence in us, have it implicitly; and when you lose it, remove us from our offices. So long as you have confidence in us we can sit on the Government Benches and when you lose it you should remove us. You will find at that time no reluctance on our part. I have drawn the attention of the House to all these dangerous aspects of the question. The Hon'ble President has been invested with full powers and he can himself appoint the Constitutional Advisor. When the Hon'ble President finds that he no longer requires the services of the Constitutional Advisor, he can relieve the latter. We do not want to come in the way of the exercise of the powers. I have hinted at certain matters in my speech and hope that you will try to understand them and express your opinion after due deliberation.

Maulana Mohd. Saeed: Sir, I rise on a point order and like to explain the matter on personal basis.

Hon'ble S.M. Abdullah (Prime Minister) You cannot explain it on personal basis.

Hon'ble G.M. Sadiq (President): Sir, (to Hon'ble Prime Minister) Have you spoken for or against the amendment? You have not made it clear.

Hon'ble S.M. Abdullah (Prime Minister): Sir, my speech was clear and I am sorry that I did not express my definite opinion in words. Sir, I oppose the amendment in the most emphatic terms and hope that the House will reject it.

Maulana Mohd. Saeed: Sir, I had raised the point of order on personal basis.

Hon'ble G.M. Sadiq (President): The point of order is frivolous.

Maulana Mohd Saeed: Sir, it is my privilege and I can raise it.

Hon'ble G.M. Sadiq (President): You can only raise a point of order. If you start a fresh speech I shall stop you.

Hon'ble S.M. Abdullah: If he is going to speak in reply of my speech I should also be permitted to make my reply.

Hon'ble G.M. Sadiq (President): Some misunderstanding has been caused and Maulana Masoodi wants to make some explanations which he can do. But if he starts to make a fresh speech, I shall stop him.

Maulana Mohd. Saeed: Sir, I have to come to the conclusion that my speech has been misrepresented. I think I should reiterate the words used in my speech. The tone of the speech made by the Hon'ble Leader of the House reveals that he has taken it as a personal matter. Every member has the right to move an amendment and for a single resolution not only one but as many as ten thousand amendments can be moved in the House. So far as the Constitutional Advisor is concerned, cannot he be an employee of the House? In this no question of confidence and non-confidence arises. Such a question arises in the Legislative Assembly. Every member of the Constituent Assembly whether he sits on the official or non-official benches has to perform the same duties. My speech has been misunderstood and I did not get an opportunity to give event to my sentiments. It is evident from the personal explanation made by me that this is not the proper stage to take vote on the amendment. This should be postponed till tomorrow.

Hon'ble M.A.Beg (Revenue Minister): Sir, so far as the subject matter is concerned, it has already been explained. I want to make two submissions. Firstly, the Constituent Assembly is the repository of all power. And probably the Hon'ble Mover is of the opinion that clause 3 of rule 15 detracts from the

sovereignty of the Assembly. In this connection speeches have been made by several friends. The Assembly is the repository of sovereignty and power and according to clause 3 of rule 15 powers of the Government do not supplant those of the Assembly Clause 1 of rule 15 reads;

“That the President shall be the head of the office of the Assembly”.

As Hon’ble Mir Qasim has said the President is invested with full powers and any interference with his powers on the part of the Government will be uncalled for Clause 6 of Rule 15 provides:

“That the president shall exercise in respect of the Office of the Assembly all powers of appointment, control and discipline provided that he may delegate to any officer such of these powers”.

The President enjoys full powers of control and discipline in respect of the Office of the Assembly. If the Constitutional Advisor commits any mistake which goes against the discipline, the President has full powers to take proper action against him.

Maulana Mohd. Saeed: According to what rule is he is under the control of the President?

Hon’ble M.A. Beg (Revenue Minister): Sir, the Constitutional Advisor is a Constitutional Advisor. May be the difficulty is that an expert of capability is not available. Unfortunately the law provides that these rules can be amended, altered or annulled by the House only and no other authority. This House is authorized to accept or reject these rules. So it is an injustice to the Committee to say that they have surpassed to opinion of the members of this House, especially when the President of the House himself presided over the deliberations of the Committee. If at any time the members of the House feel that a clause like this should be excluded from the rules, they can move an amendment for the purpose. It is, therefore, clear that there is no possibility of interference on the part of the Government. Another question raised by some other member related to the speech of Hon’ble G.L. Dogra. Hon’ble Dogra had said that the Constitutional Advisor is a Judge of the High Court in the other capacity and that

the Government has a connection according to which a Judge of the High Court is at the same time the Constitutional Advisor.

Maulana Mohd. Saeed: Provided he is a retired one.

Hon'ble M.A.Beg (Revenue Minister): Not here Hon'ble Dogra has also pointed out that one Judicial Department must be independent. And it is a fact that it is so. The day to day events prove it. The Government too have appointed a High Court Judge as their Constitutional Advisor. We had no higher institution here. So the opinion of the present Constitutional Advisor should be beyond any doubt. Besides, he is an Advisor and an expert Advisor Law required experts. As Engineers and Doctors are experts in their own field, so a Legal Advisor is an expert in his line.

Kh. Noor-ud-Din Sufi: Sir, I rise on a point of order. There is no question of experts or non-experts and Hon'ble M.A. Beg is discussing it all the same.

Hon'ble G.M. Sadiq (president): This is not point of order.

Hon'ble M.A. Beg (Revenue Minister): Nobody has said so far that experts mislead by their counsel can ever an engineer give a misleading advice? Such is the case of Constitutional experts. It is an injustice to experts to think that they will mislead by their counsel. In short, I will say that it is wrong to think the powers of the Assembly get detracted in any way. These powers remain as unimpaired as they were with these words. I would request the Hon'ble members to oppose the amendment moved and vote for the original motion.

Maulana Mohd Anwar Shah Masoodi: Sir, the motion is before you. I did not expect such a reaction to my amendment. I thought it was simple matter. So far we have seen and known that when anywhere in the world a bill or an amendment is moved in a Parliament, cool and serious thought is given to it. I would say it is absolutely incorrect to say that the amendment was prompted by any ulterior motives. I want to assure the House that I moved the amendment because according to my point of view it would benefit the people. May be, we have not any knowledge of the world we should be taught in a proper way. It should be done seriously and must have a limit. However, I crave for the indulgence of these venerable persons who were apprehensive of my

amendment or thought that I had attacked a particular person. Therefore, on the assurance of the Hon'ble President that any counsel of the Constitutional Advisor which is not acceptable to the former will be rejected, I withdraw my amendment.

Hon'ble M.A. Beg (Revenue Minister): So far no binding had been imposed on the Hon'ble President but now it has been imposed.

Maulana Mod Anwar Shah: This is not a binding but a condition.

Hon'ble G.M. Sadiq(President): Do you withdraw your amendment?

Maulana Mohd Anwar Shah Masoodi: Yes, Sir.

☛ **Note:-** The amendment was withdrawn with the permission of the House.

Hon'ble G.M. Sadiq (President):- Does Sardar Harbans Singh Azad wish to move his amendment?

Sardar Harbans Singh Azad: Sir, Yes regarding clause 5 of section 7 of the Rules introduced in the House, I want to move an amendment. In clause 5 it has been said that if in an election one of the two candidates gets more votes than the other shall be considered as the successful candidate. If both of the candidates poll equal number of votes is taken and it results in a tie instead of drawing lots the Deputy President should have the right to a casting vote. In this way the need of drawing lots will not arise. May be there are some members who preferred to remain neutral in the first election but will change their opinion next time. So far as the rule that President includes a Deputy President is concerned in clause 2 of section 31, the President has been authorized to exercise casting vote. So I think the deputy President too should have the right to a casting vote.

Hon'ble S.L. Saraf (Health Minister): Sir, the Hon'ble Member should please explain what he means.

Hon'ble M.A. Beg (Revenue Minister): Sir, can any member be compelled to explain as to why he feels a certain necessity?

Sardar Harbans Singh Azad: If somebody fails to understand me how am I to blame?

Hon'ble G.M. Sadiq (President): The point is that this is not substantive amendment.

Hon'ble M.A. Beg (Revenue Minister): Sir, in the rules it has been provided that when the office of the President of the Constituent Assembly falls vacant, the members of the House shall elect someone to this office by their votes. And if two candidates get equal number of votes the election shall be by the drawing of lots. Mr. Azad says that instead of drawing of lots the voting should again take place. If again the two candidates obtain an equal number of votes then the Deputy President should also vote. The point at issue is that can he exercise his vote or not. He can exercise his vote in the election of the President and at no time has he been deprived of his right. The House comprises 75 Hon'ble members and they can exercise their vote at all occasions. Deputy President is also a member and the Rules do not debar him from exercising his vote when the number of votes is equal the decision is taken by the drawing of lots. If recourse is taken to voting again it will be a recurring thing. It is, therefore that in such cases the decision is taken by the drawing of lots. On these grounds amendment put forward by the Hon'ble mover is impracticable and I would request him to withdraw the same.

Sardar Harbans Singh Azad: Sir, I think the amendment moved by me is very important. I know that the Hon'ble President can exercise a casting vote, but it has not been provided in the Rules that the Deputy President also is entitled to a casting vote. I will move this matter some other time in the House. At the present moment I withdraw my amendment.

Hon'ble G.M. Sadiq (President): Sardar Harbans Singh. There is another amendment in your name and do you want to move it in the House.

Sardar Harbans Singh Azad: Sir, my second amendment pertains to rule 23 and it reads: "After the words. A copy thereof shall be supplied for the use of any member" one clear day.

Sir, in the amendment it has been said that the list of business should be supplied one clear day before the commencement of the business of the day. It has been found that the members get copies of the amendments just when they are to be moved and in this way the business of the House suffers. If it is done one clear day earlier, the members can consult rules and do a lot of thinking too.

Today also we got copies of these amendments just fifteen minutes before the commencement of the business. It creates difficulties and the House cannot fulfill its duties properly. With these words I move my amendment before the House.

Hon'ble M.A. Beg (Revenue Minister): Sir, we shall find if already provided in clause 4 of section 25 that:-

“Where five clear days, notice of a motion has been given, the Secretary shall send a copy of the motion to the members at least two clear days before the day on which it is to be moved”.

When we shall adopt comprehensive rules in future, the members will be required to give a notice of five days and the Secretary shall then send a copy of the motion to the members at least two clear days before the day on which it is to be moved. As a matter of principle the amendment should have been moved by me but now Sardar Harbans Singh has done so and I got a copy only just now. In this connection I would like to say that after these Rules are adopted the officials of the Assembly office shall see to it that as far as possible all copies and the order of the day are sent to the members in time you are adopting comprehensive rules today and a hope that the Hon'ble mover will withdraw his amendment.

Sardar Harbans Singh Azad: Sir, Having received this assurance I seek your permission to withdraw my amendment.

Note: Permission to withdraw the amendment was granted.

Hon'ble G.M. Sadiq (President): All the amendments regarding this report have been withdrawn. Before I put the report to the House I would like to know whether the rules should be put as a whole, or clause by clause. As all the amendments pertaining to these Rules have been withdrawn, I would like to put them as a whole. If these are to be taken up clause by clause more time will have to be allotted for the purpose.

Maulana Mohd. Saeed: Sir, no purpose will be served by taking up to the rules clause by clause. After we have seen the fate of the amendment the rules should be taken into consideration as a whole.

Hon'ble G.M. Sadiq (President): Those who are in favour of Mr.Beg's motion to take the Rules into consideration as a whole and the recommendations of the

Select Committee regarding the Rules of Business and Procedure should say 'Aye' and those who are against should say No.

☛ **Note:** The motion was adopted unanimously.

Hon'ble G.M. Sadiq (President): Item No.1 of today's list of business (Order of the Day) was a statement by the Hon'ble Leader of the House. If he likes he may make his statement.

Hon'ble Sheikh Mohammad Abdullah (Prime Minister): Sir, before making my statement I want to offer an apology to you and the House. In the morning I did not feel well and therefore came here late. With your permission I read my statement.

"This Assembly which is the centre of our hopes and aspirations held its first meeting in the first week of November, 1951 at Srinagar. It is now meeting again after an interval of nearly 4 months. In the last session I had drawn your attention to the fact that though this Assembly possesses the unquestioned right to decide the future of the country and that this House is going to exercise this right to the fullest measure, nevertheless were anyone to question the right of the Assembly to do so, we would be prepared to seek the verdict of the people outside on this question and all that need be done in this connection is to create necessary conditions which would enable the people to exercise their will freely. But I regret to say that the United Nations have not so far succeeded in making the aggressor accept the conditions conducive and preliminary to creating a favourable atmosphere for a free and fair plebiscite.

Last year Dr. Fank Graham, U.N. Representative, came to India and Pakistan. Interviews and negotiations continued for months together. On his return he presented his report to the Security Council which held its next session at Paris. Prior to the session negotiations were resumed in Paris between Dr. Graham and representatives of India and Pakistan. On this occasion our two colleagues Mr.D.P.Dhar and Col. Ghulam Qadir also helped the Indian Delegation with their advice. Negotiations were carried on separately with the representatives of the two countries but proved inconclusive. After the negotiations when the Kashmir Question came up before the Security Council for

discussion, I participated in the meetings of the Council as an observer. Once again the representatives of India and Pakistan put the view point of their countries before the Council. Some prominent members of the Council as well spoke and Dr. Graham was given another opportunity to come to the Indian sub-continent and make final endeavours to bring about a settlement between the parties based on an agreement of demilitarization by the two Governments. And at present Dr. Graham is busy in carrying on negotiations with the Indian and Pakistan Governments. To what extent his efforts prove successful will be revealed within the next few days.

During my recent visit to Europe, I came to feel, that the various countries of the world, after having been fed on misrepresentations for four years, have for the first time now begun to study this question in a realistic manner and the veil of misrepresentation which so far concealed the basic issues involved in this question has begun to lift. The feeling abroad, now is that this question is not simply a Hindu-Muslim business but that it contains, as its basis, high principles of politics. This question received added importance on this occasion as a result of the intervention of the Soviet Delegation in the debate after nearly four years of silence. In the course of my recent tour wherever I went I found increased awareness among the foreigners of the nation building measures and popular reforms launched by the present Government of the State and look upon these measures with appreciation.

It is now recognized everywhere that the National Conference is a progressive party and truly represents the people of the country and those who administer the affairs of the State today enjoy the fullest support of the people. Every intelligent man can well understand the fact that the longer the Kashmir dispute continues, the greater will be the hardships of the people of the State. It is, therefore, that we have always sincerely wished that a correct solution found of this problem as soon as possible. But I have to say it, regretfully though, that in all the endeavours so far made ways were found to overlook the basic issues. It is known to all in what circumstances the State of Jammu and Kashmir acceded to India. No one has been able to question this accession with India. It is clear,

therefore, that so long as the people do not annul this accession, India cannot be expected to forgo her rights and responsibilities arising out of this accession. Supposing it would be so, the position that would follow would not be that Kashmir becomes part of another country. What would happen in such an eventuality would be that the State would regain the status which it enjoyed immediately preceding the State's accession to India. Legally and constitutionally the result of any such annulment would not be that the State becomes a part of Pakistan.

We have again and again declared it to the world that Pakistan's position in Kashmir is that of an aggressor and nothing more. Therefore, not until Pakistan withdraws from areas forcibly and illegally occupied by her, the integrity and sovereignty of the State in the enemy-occupied areas is restored thereby making return of peaceful conditions in those areas possible, the displaced and uprooted nationals of the State are rehabilitated, would it be possible to ascertain freely and fairly the will of the people with regard to the future of this State. No one can gainsay the fact that it would be a tragic irony if the future of the land is decided when nearly one eighth part of the population of the State continues to be composed of those who have become refugees both in India and Pakistan. It would be ridiculous that when the fate of their beloved motherland is being finally decided, they should resettlement and rehabilitation of these uprooted national of the State is the foremost pre-requisite of the future of this State being determined by the free verdict of the people.

These form the important and basic Principles of accession and these are the fundamental conditions for a free and fair plebiscite. National Conference has persistently stuck to them. What is to be regretted is that neither the UNO paid any heed to these basic issues nor did Pakistan give up her recalcitrant attitude. Pakistan has throughout attempted to equate herself with India in regard to the Kashmir Question. This position we are not going to accept nor is India nor any other fair-minded country. Even the United National Commission has refused to bestow this status of equality on Pakistan. The resolution of August 13, 1948 and January 5, 1949 show clearly that UNO has rejected this demand of Pakistan. So

long as Pakistan follows these obscurantist tactics, there seems hardly any likelihood of the dispute being settled amicable.

I had declared in the last session of this Assembly that the right of deciding the future of the State belonged only to the people whose representatives have now gathered in the House. You now possess added authority to forge ahead and I am confident that overcoming all difficulties you will be able to make a decision that the world must recognize. I am sorry, however, that in these momentous deliberations it has not been possible for the people in the occupied area to be directly associated. They indeed grieve in their turn for their absence here. I am confident that out of the suffering and misery which has befallen them, an awareness has come to the people in the occupied areas that they have been made the victims of huge fraud in the sacred name of Islam by those who have themselves scant respect for its message. I am aware that majority of these unfortunate people have seen through this deception and that they are anxiously awaiting liberation. Their minds are filled with hope and expectation that their chains of slavery would break. They are struggling hard but they have yet to achieve their goal. I want to assure them of our sympathy and friendship. We will spare no effort to help them in their struggle to be free. We shall continue our efforts so long as Pakistan does not concede our fundamental demands and does not withdraw from our territory. It is our considered view that not until the fundamental unity of this State is restored and not until people in every part of the State, whether they are from Kashmir or Jammu, from Mirpur or Gilgit, are enabled to freely associate to decide their own future, can there be any lasting or peaceful settlement of the Kashmir problem. Through this House I appeal to my fellow countrymen on either side of the ceasefire line to be prepared for any sacrifice to achieve their lost union. They should face all the disruptive powers by mustering all their scattered forces, and from an impregnable force to become the architects of their own future.

Since the last session, the international situation has rapidly changed; especially the situation in the Middle East has reached a point of crisis. The oil dispute between Iran and Britain created a critical situation for world peace.

Some attempts have been made to settle the dispute but there seems no possibility of a satisfactory settlement to satisfy the Iranian People's urge for freedom and self determination. The conflict between Egypt and Britain over the Suez Canal and Sudan reached its limit. In consequence of this conflict many lives were lost.

The national sentiment of the Egyptian Nation has been routed to a pitch and there seems no hope of a settlement between Britain and Egypt in respect of their dispute, In the French colony of Tunisia, also people are waging a fierce struggle for freedom and pitched battles are being fought between French Imperialism and Tunisian freedom fighters. In the Far East the situation is fraught with danger. The conflict between the popular forces and the French and British Imperialists in Indo-China and Malaya is raging unabated. The prospects of a settlement between the United Nations on one hand and North Koreans and Chinese on the other hand seems by no means bright. The efforts to bring about a truce and a cease-fire have not borne fruit as yet. In the background of all these conflicts on the one hand is the desire of the colonial powers to perpetuate their exploitation of and domination over smaller Nations of the world and on the other hand is new awakening and freedom urge of the exploited masses in these countries.

In South Africa the conflict is more lurid and has assumed quite a different shape. The small minority of white men, which unfortunately happen to be in power in South Africa has always sought to make such laws as would widen the gulf between the white men and the coloured races and segregate these classes in the political, economic and social life of the country. It was South Africa where first of all the great apostle of freedom and brotherhood, Mahatma Gandhi, raised his voice against social injustice and racial discrimination. And it was here that he offered his philosophy of "Satyagrah" and non-violence to the world. The freedom struggle has not yet achieved its goal and it is not known how long shall it go on like that. Today Gandhiji's son, Mr. Manilal Gandhi is carrying forwarded the traditions of his revered father. He has for the second time undertaken twenty one days fast and we pray for success in his mission. Recently the Malan

Government had promulgated a law for preparing a separate electoral list for coloured people against which an appeal had been instituted in the Supreme Court of South Africa which unanimously declared this law as invalid and against the Constitution. The freedom loving people all over the world commended this decision of the court. But the Malan Government is so made with power that they now seek to flout and supersede the decision of their own Supreme Court. Thus they are not only strangling the freedom of the people but trampling under foot the independence of the Supreme Court as well. In South Africa this matter has assumed very great importance and, if the Malan Government does not change its policy, the consequences will be far- reaching.

India recently achieved success in the great and magnificent experiment of democracy. After the achievement of independence millions of adults, men and women, exercised their right to vote for the first time. And the discipline, grandeur and peaceful atmosphere in which this democratic experiment was performed have been applauded and appreciated all the world over. The three hundred and sixty million people of India can rightly feel proud of this national achievement. This glorious election battle that was in reality fought between communalism and secularism can well be called the modern Mahabharata. It put to the test those principles on which the magnificent edifice of India nation stands and to carry forward which Kashmir also played a historical and important role. I feel great pleasure in saying that India, under leadership of Pt. Jawahar Lal Nehru, has made it clear to the world that the people of India cannot subscribe to the dangerous ideology of communalism and they do not believe in it. I offer my hearty congratulations to Pt. Jawahar Lal Nehru and the people of India upon this unparalleled and glorious victory. I feel justified in claiming that the victory of the progressive principles is, in fact the victory of the principles for which the people of Kashmir have borne continuous hardships and suffered for long. In 1947 when we faced the onslaught of communalism, no one could have envisaged the happy change that has now come about. Today the world is forced to admit that path adopted by the National Conference from its inception was a correct and a glorious path. Whatever the difficulties, we shall march to our destination with a

firm faith and strong determination. The results of the Indian Elections are a standing testimony that it is ultimately the sacred principles of secularism that will triumph. The present situation in the Jammu and Kashmir is that we have eliminated communalism from the body, politics but still a few of our friends in the Jammu city are making unsuccessful attempts to revive it. During the elections to the Constituent Assembly they tried to misuse the opportunity offered to them and went to every possible extent to defeat the progressive forces so that the purifying corpse of communalism resurrected. The people in general, however, discovered them and they consequently sulked away from the scene. All the same they sought opportunities whereby they might injure popular causes and vitiate the atmosphere of the State. Last month they sought to use a few college students to excite communal and provincial hatred. The Government acted with considerable restraint in face of this situation but ultimately took necessary measures in order to preserve peace and tranquility. Using minimum force they nipped this potential mischief in the bud. While I deplored the actions of these misguided friends, I am happy that peace-loving and patriotic people everywhere in the State gave their unstinted co-operation to the Government in the enforcement of these far-sighted measures.

I once again declare it emphatically that I and my Government will not tolerate, under any condition communalism, whether it is of Hindu, Muslim or of any other denomination. We are not going to have any association, direct or indirect, with any group or organization whose aims and objects are based upon communal prejudice and intolerance however attractive be the label under which such an organization may seem to function.

The Praja Parishad is such an organization. Its past and present activities are not hidden from anyone. It existed before the partition and the riots, by the name of the R.S.S and turned Jammu and its `carnage for which it was responsible. When the R.S.S had exposed itself before the people by its heinous deeds it was then that it put the label of Praja Parishad on itself. The claim of the Praja Parishad to being the party in opposition is absurd. How can an organization, which was responsible for suffering and misery of thousands of

people, claim to the party in opposition? It is a party inimical to the very interests of the State. It wants to mislead the people in India by wrongly and mischievously suggesting that the only subject matter of its difference with the National Conference is that while it wants the entire Constitution of India to be applied to the State, the National Conference wants its limited application only. Everyone knows that according to Independence Act, the States were required to accede to either India or Pakistan, only in matters of Defence, Foreign Affairs and communications, and that, for the rest, they might elect to remain autonomous or surrender further subjects to the Centre by mutual agreement. Consequently, this is not a matter to be used as the basis of an agitation. It is a matter to be discussed and decided by the representatives of the people. If they so choose, they may accede more subjects to the Centre. This precisely is the important Section 370 of the Indian Constitution. The sovereignty and unfettered powers of the Constituent Assembly have been recognized by the Indian Parliament. The present Constitutional relationship between Kashmir and India has time and again been made clear by the Indian Government and its prominent Leaders. The speeches made by late Sardar Patel, Shri Gopalaswami Aiyangar and Pt. Nehru himself in this behalf are still fresh in the memory of the people. In view of this the attempt of the Praja Parishad to stir up trouble on this question is clearly provocative and mischievous. This is the role of reactionary organization everywhere. These organizations use all excuse to incite people for their own selfish ends. The Praja Parishad also has chosen the same path. It tries on the one hand to convince the people of India that it is loyal to India's interests; on the other hand, it does not spare any effort to work for communal and provincial disruption. It also seeks to revive vested interests in the State. All their attempts are directed towards stirring up trouble on one pretext or the other. It is, however, a matter of great satisfaction that the common people have now become aware of their interests and it is no longer possible for communalist organization to exploit them.

Despite the unbecoming and objectionable activities of the Parishad Leaders, I and the National Conference do not cherish any feelings of ill-will

against anyone of them. We do not allow ourselves to be swayed by feelings of revenge at animosity whatever be the provocation from these misguided quarters. We do not want to overcome hate by hate but by persuasion and love. It is our earnest desire that these friends should eschew hatred and instead take to love, sincerity and tolerance. The sooner they realize that Jammu and Kashmir are the two limbs of the same body and that the honour, welfare and freedom of one is dependent on the honour, welfare and freedom of the other, the sooner will fulfillment of our aspirations emerge. Therein lies the interest of India as well. I hope they realize how much Capitan Pakistan made of their misguided actions and will not make them wiser and dater them from treating a path that is nothing but wrong?

It given me no pleasure to find that some people are under detention, We have ourselves struggle, all our lives for freedom, it makes us extremely un happy to be responsible for the restrictions of the liberty of any our own countrymen. I look forward anxiously to that moment when it would be possible for me to remove the restrictions which have been placed on them.

Regarding the question of resettlement of Refugees, inside and outside the country, it has been successfully tackled but a good deal still remains to be done on account of financial and other limitations. The refugees themselves will have to pay attention to this problem. To a large extent their resettlement depends on their co-operation. They should, without any delay, settle wherever land is available in the Country.

The food situation in the State this year is satisfactory. Keeping in view the speed of increase in the production we have not yet attained a position where we go strike a balance between our needs and the local production, but we are containing our efforts to make the State self sufficient in food. The Irrigation Department is being extended greatly and uncultivated and barren lands are being brought under cultivation. I hope that in a few years time our food difficulties will end. The Departments of Education and Public Welfare are continuously being extended. Our study and determined march towards progress and welfare is a clear pointer that the time is not very far off when our country will

be peerless in its beauty grandeur in the whole world. At this stage I do not want to dwell upon the subject any more. A month or so later our budget session begins and it affords an opportunity for such details.

I want to draw your attention to the important work of constitution making for which you have assembled here. This is a great work and demands untiring efforts. In the last session you had entrusted the work of developing its outlines to several Committees. The basic principal and the Fundamental Rights Committee have not completed their work as yet and had to request for more time which you have yesterday granted. In reality the future Constitution of the State largely depends upon the reports of these Committees and so long as those committees do not complete their task the work of framing and compiling the constitution cannot go off.

You had entrusted yet any another committee with the task of reporting on the advisability or otherwise of giving compensation to those expropriated landlords whose land has been distributed among their tenants. The report of this committee is being placed before the House during the session. This is one of the most important items of your business, and you should take final decision regarding it. The results of the land reforms have an important bearing on our Constitution and the final shape of the land reforms will be determined by the way of question of compensation is decided finally.

So Far this Assembly is conducting its business according to the Provisional Rules. But it is necessary that the Rules of Business and Procedure should be the result of your more nature and considered deliberation. The draft prepared by the Basic Principles Committee appointed by you has been put before the House. You should adopt these Rules in this very session, after due deliberation, so that we take our next step in Constitution making on a well-paved path.

With these words, I conclude my speech and hope that you will, at every step, realize your responsibilities that have developed upon your shoulders by dint of the unbounded trust put in you by the country.

Note:- The House adjourned till 27th March, 1952.

Thursday.....27th March, 1952/12th Chet, 2008

The Constituent Assembly met in the Grey Hall Jammu at eleven of the clock

(Hon'ble G. M. Sadiq) President in the Chair;

***Hon'ble G.M Sadiq (President):** Before starting today's business I invite the attention of the House to one important fact. The report of the Land compensation Committee which was scheduled to be presented in the House today was somehow published in the newspapers yesterday. Such reports as have not as yet been presented in the House cannot be regarded as public property. Such documents possess a sort of sanctity and privilege and if published before being presented in the House cannot be said to contain such sanctity and privilege. I want to inform the House that such things are undesirable. I hope that the press representatives who are present here shall henceforth feel and realize their responsibility and shall give no cause for complaint to this House any more. Not only should they avoid the cause of complaint but they must also make it a point that if any such irregularity happens again, this House shall have to take a very serious action against them. The press must therefore be very cautious in future.

Hon'ble Beg will now present the report of the Land compensation Committee.

Hon'ble M.A.Beg (Revenue Minister): Mr. President, Section 26 of the Big Landed Estates Abolition Act provides that the question of compensation with respect to the land from which expropriation has taken place under the said Act shall be settled by the Constituent Assembly of the State. In the previous session of the Constituent Assembly a Committee was appointed and instructed to ascertain the public opinion and accordingly to examine and report upon the desirability or otherwise of the payment of compensation. The members of the said Committee were elected by the House, they started tours and visited different parts and places of the whole State. Different bodies, organization and men of different interests appeared as witness before the said Committee to

express their point of view on the compensation issue. The number of such witness exceeded twenty six thousand. It could not be practicable to record the statement of every individual, but instead the Committee requested groups or persons where the number used to be large, to choose one as their spokesman and in such public meetings the statement of 65 persons have actually been recorded. Besides, the Committee received memoranda from different Associations and organizations on this issue. The Committee thus after a keen study and careful enquiry into the problem has been able to publish this report which is now on the table of the House. Before throwing light on the details of this report I take opportunity of thanking all organizations, the press and local individuals, who, by their valuable and apt suggestions have offered co-operation in the work of the Committee. It is only after considering these suggestions and views that we are able to prepare the report which is submitted to your Honour today and I move that the said report be considered. Mr. President, there are two particular views in this behalf one in favour of the payment of compensation to the expropriated landlords and the other against it. Both the views are supported by arguments. The Committee received a written memorandum from the Landlords Association. They also gave oral statements, their representatives argued. These arguments which are in favour of the payment of compensation can be divided into two classes. First as no one can deprive of the right of ownership so the landlords who have been expropriated from the land should adequately be compensated. The second view held is, that depriving a person from the ownership of his inherent property without compensation is not authorized by any law and doing so will denial of all the moral and social obligations. Reference has also been made to the Constitution of India under which payment of fair compensation is obligatory. It has also been argued that the State Land Acquisition Act provides that no lands shall be acquired without payment of compensation. Besides, many other arguments have been advanced, one among which is that it is not desirable to expropriate those landlords from the land who have purchased it on price consideration. Taking the reference made to the Constitution of India into consideration, it pertains to Part III of the

Fundamental Rights of Citizen of this Constitution. It is true that some provisions of this part do make the payment of compensation obligatory. But this part of the Constitution of India is not at all applicable to the State of Jammu and Kashmir. We have acceded to India in respect of three subjects only. The provision of Indian Constitution pertaining to these three subjects only can be made applicable in our case. It is thus clear that only some particular sections of this constitution apply to our State. So far as this provision regarding the payment of compensation in the Part III of the said Constitution is concerned, it can in no case be made applicable to our State. Hence the reference made to it is irrelevant.

Under the provisions of Land Acquisition Act any land can be acquired for public purposes and it is true that this Act provides for payment of compensation. But it is to be understood that the acquisition of land under this Act is for some definite purpose, say for construction of a school building, for construction of roads, or for canals etc. and generally this purpose is governed by some commercial consideration both for the buyer and the seller. We should say that it is strictly speaking a business deal and the abolition of Estates cannot be governed by these considerations. I will again submit to the House that argument which the National Conference and the Government of Kashmir used to advance in respect of abolition of Big Landed Estates was that the private ownership of thousands and lacs of Kanals of land by a few individuals is dangerous not only for a few persons but for the

(The star mark indicates that the speech was delivered in Urdu and the English translation thereof is incorporated in the debates).

community as a whole; and the only way out is to transfer this land to those who actually till it. These absentee landlords, who owned thousands and lacs of kanals of land, did not utilize such big areas, strictly speaking from the national point of view. Taking this fact in to consideration the Government decided to distribute the land in such a way so that a limited portion should remain with the landlords. I want to make this point clear to the House that in case Magharsingh verses Principal Secretary, which was instituted to get the Big Landed Estates

Abolition Act declared ultra-vires, the High Court of this State has held that the Government can make law for the acquisition of land and acquire land under law, that extinction of ownership right can be legal, that the legislature has power to extinguish ownership right can be legal, that the legislature has power to extinguish ownership without compensation, and that expropriation without compensation is as valid as expropriation with compensation.

To those friends, who have stated before us that taking over of lands without compensation is unreasonable; this decision of our State independent Judiciary is a stout reply.

Hon'ble G.M.Sadiq (President):- keeping aside these objections the question is whether there is any moral or legal objection for their being compensated. The Committee studied the past history fully. We had to trace the origin of the history of Landlordism, because it was argued from the side of tillers that the lands owned by the big proprietors did originally belong to them and it would be strange to demand compensation from them. They said that they had usurped land from them, it had all been reclaimed by the cultivators and it was they who had cleared the jungles and the woods. They in fact were the owners but some other person became the Proprietor in name. We thus traced the source and origin of such big estates as that of Raja Chinani-Badri Nath who was the proprietor of a vast area. What were the reasons for their being owners of such large landed estates. After enquiries we came to know that these lacs of kanals of land were granted to them by the Government of the day free of any cost. Under the old Ains No. 5 and 6 the Maharaja had gifted away as much as one lac and 11 thousand acres which in kanals come to 8 lac and 88 thousand. This huge area was granted by way of gifts to big influential persons Under the Pratap Code, which was made applicable to the Jammu Province. 2 lac and 19 thousand kanals of land were granted to a few owners gratis. Similarly under Raj Tilak Boon 40 lacs and 7 thousand kanals of land were given away free of cost to big influential persons.

Under Nautors 19 lacks and 80 thousand kanals of land have been bestowed to these big landlords. At the time of the regular demarcation of forests

5 lacks and 36 thousand kanals of land were snatched from the actual cultivators and disturbed among the new maliks. Thus under Ains No's and 6, the Raj Tilak Boon Pattas and the Forest Department rules 75 lacks and 35 thousand kanals of land have so far been given as gifts. The question arises as to whether the original proprietors were compensated for the land of which they were deprived. This land belonged to the people. It belonged to the country and the community as a whole, and in spite of this fact why have 75 lakhs and 35 thousand kanals of land been distributed free of cost? This policy was adopted intentionally. The Committee studied the views of different settlement officers and settlement Commissioners. The study of these reports revealed that this policy was persistently being followed and it was due to this policy that the Government officers and influential persons were given lands free of cost. Similarly much land from the Jammu Tehsil was usurped by big officers. In 1907 when Assamies were created in villages of Mirpur and Reasi Tehsils Maharaja issued a proclamation that if any cultivators broke up land in the village it should be considered to have been broken up on behalf on the Assami and should be held by Wahid Assami and not by the Cultivator. Thus in this way thousands of kanals of land were broken up and passed in the possession of such Assamies. The example of Chenani is before you. In 1974 when settlement took place, Mr. Talbout observed that the Raja of Chenani had no proprietary rights in such vast land. The settlement authorities have held that no conqueror could deprive his subjects of their rights. The Raja of Chenani could not be given the proprietary rights of forty seven villages. Quite against this principle the proprietary rights of 47 villages were taken away from the cultivators and given to the Raja of Chenani. Before the enforcement of Big landed Estates Abolition Act, 2007 the Raja of Chenani was an owner of 2 lacs and 30 thousand kanals of land. Diwan Amar Nath and Diwan Dhanpat Rai likewise emerged as big proprietors without payment of any consideration. In this manner under certain items 75 lacs and 36 thousand kanals of land have been bestowed upon the favoured few. No compensation was received for these lands. We only returned this land to the original proprietors whose ancestors did own it. We have distributed only 50

lakhs of such land to the cultivators because in reality it belonged to them. Under these circumstances can there be any moral justification for payment of compensation to these expropriated landlords? The Committee has recorded in its report.”

“What was robbed them immorally and what is due to them morally, for that they are being asked to pay to those who got it without morality.”

We are asked to pay compensation to those who have no moral justification. They cannot demand compensation for these 50 thousand kanals of land in so far as this land stands already usurped from the tillers. After a thoughtful deliberation the Committee is of the opinion that the land must be owned by him who tills it. The question was put before the Committee that those persons who got lands by way of rewards from Maharaja may not be compensated, but why should those persons suffer who purchased it against money consideration. In this connection we have to see the benefits derived by those persons who purchased such land ten or twelve years back twenty or thirty thousand. How much rupees and we have also to see as to how much they have spent over it. How much did they pay as land revenue? What profit did they obtain out of the produce of the land. Taking these matters into consideration we have come to this conclusion that those persons who purchased land against cash payment have not only recouped the initial investment on land but have made much more profits there from which exceed the capital and interest thereon. For instance I will quote an example of Moza Gopalpora where a piece of land against which arrears of land revenue were outstanding was sold to a certain person at Rs.20,000/- in 1992 and up to S. year 2000 he earned Rs.23,000/- by way of income from fruits. It shows that such a large income was earned in seven years only. Today it is S. year 2008 and the prices of fruits have swollen to the highest pitch. You can well imagine the extent of profits which might have accrued to him. These examples clearly show that those lands which have been purchased against money consideration by the owners have yielded enough return to them and as such they need not be compensated. The Committee is also of the opinion that in no case compensation should be

awarded. Besides one of our Hon'ble colleagues. Wazir Ram Saran Das, Who is himself a big land owner feels that in case of expropriated owners who are not able to drive sufficient maintenance from 182 kanals of land, a grant of maintenance allowance should be considered. His view is that widows, minors, infirm people or the affected land owners of inferior kinds of land which do not yield sufficient return, deserve special consideration; and though in principle nobody is entitled to compensation as such this category of land owners may be granted additional maintenance allowance. If maintenance is granted to such minors or infirm persons, the retention of 182 kanals of land by them will be a share waste, because they cannot utilize it as they ought to. Besides this, all the members of the committee agree that no compensation be given to the landlords. This report did not bear the signatures of Mr. Ghulam Ahmad of Salar and Pt. Janki Nath of Achhable due to their absence at that time. But when the report was put before them they fully agreed that no compensation be given. Some members of this Committee like Mir Ghulam Ahmad of Salar, were themselves big proprietors. Mr. Ghulam Ahamd owns big land and some of his land which comes within the purview of this Law amounts to about six thousand kanals. Similarly Wazir Ram Saran Das was also a big landlord, his land has been distributed among tillers under the said Law. He does not tolerate that any compensation be paid to landlords (Cheers) So far as the opinion of landlord members is concerned, I attach more importance to their personal experience by virtue of which they say that there is no justification for payment of any compensation to landlords. Sir, we have today submitted this report before you. I am glad that the committee has taken into consideration the fact that 50 lac kanals of land have been taken away from about 9 or 10 thousand men and distributed among 7 ½ lac tillers.

It is gratifying to note that expropriated Landlords include Hindus, Sikhs and Muslims and the tillers among whom this land has been distributed include people of every class and religion. The maximum benefit of his step has gone to Harijans (cheers). It was considered a sin even to enter the name of member of this downtrodden class (of (Harijans) in the "Khatooni", order Revenue papers.

But by this revolutionary step the people belonging to this class have become in proprietors of lacs of kanals of land (Cheers). Demanding compensation from these poverty-stricken people and bestowing it upon men like Dewan Sahib and Raja of Chenani bears no moral justification. In a village at Sopore, the villagers wanted to build a Mosque but the land upon which they wanted to construct it belonged to a Chakdar and thus they could not get a piece of land for this holy task. Is it reasonable now to demand compensation from these poor men and hand over the same to men like Diwan Sahib ?

The Committee, during its course of investigation, have also taken into consideration the question of Religious Institutions. Big pieces of land were dedicated to these Institutions and many such Institutions that belong to Hindus, Sikhs, Muslims and Bodhas render considerable help to the cause of culture, education and human progress. As a result of the Abolition Law the income is sure to be reduced. After all these are important social institutions and religion is an important aspect of human life. The income, which accrued out of the lands attached to Religious Institutions, is exploited to a considerable extent. Many examples can be cited in this behalf. It is clear that this income is appropriated for personal use and the real purposes under which these lands were dedicated to the institutions are not fulfilled. But the sacredness of these institutions is of great importance to our society. Sir, the committee in its report, has recommended that as a matter of principle no compensation be given for such lands, but considering the social importance of such institutions, an adhoc Committee should be appointed under Rules and Regulations of this House, to consider separately the question of their maintenance and administration and submit its report about the same. Entrance to many places of worship being restricted or limited, this adhoc committee will have to investigate into the question of betterment of their administration. So, this House will appoint a special adhoc committee to solve the question of religious institutions. With these words I submit the report of the Committee and move that the same be taken into consideration. I also thank Pt. Ram Chandra, Secretary to the Committee who has discharged his services fully well in making out programmes regarding

statements of witnesses and complying with other official requisites. We were fully benefited with his knowledge and experience about land.

Hon'ble G.M.Sadiq (President) : The Hon'ble members of the House may now speak for or against the report submitted by Hon'ble M.A Beg.

***Mr.Krishan Dev Sethi** : Mr. President the struggle which the people of this State launched for the last 20 years was purely for the benefit of the poor who were unduly deprived of their rights by the aggressor class. This was the great achievement for which the people of this State faced fearful odds. It was necessary for this achievement to reform the agricultural system of the State. Accordingly land was distributed among peasants. The Government had promised that the question of payment of compensation or otherwise will be decided by the Constituent Assembly when convened in the last session of this Assembly a Committee was appointed to solve the problem of compensation. I also enjoyed the privilege of its membership. The members of this committee toured different parts of the State and recorded statements of cultivators and landowners. It was revealed to us that these big proprietors had obtained this land in four ways. First, persons enjoying influence and goodwill of the royal family were bestowed with land. Secondly, those who enjoyed authority obtained land against a nominal payment in different ways. Thirdly, Maharaja Gulab Singh, in order to gain the goodwill and loyalty of certain persons bestowed big areas upon them at the time of conquest of different illaqa. Thus persons who possessed vast areas of land in Bimber, Rajouri and other places attained it in this way. The fourth category contains persons who usurped land from poor men against an insignificant consideration. So far as the first three categories are concerned, I can safely say that a mere freak of pen has made them owners of such vast areas of land. The peasant in fact was the owner of this land, and as such demand of compensation for the land from which such proprietors have been expropriated, bears no moral or legal justification. The fourth class of proprietors exploited the poverty-stricken peasants, both in justified and unjustified ways and usurped their land. A moneylender had started business

with a capital of Rs. 200/- in Darvam Illaqa of Rajouri. Today he is a proprietor of six thousand kanals of land. You can yourself imagine the means by which he might have obtained such vast area. In short I submit that all the four categories of proprietors are not entitled to any compensation if compensations to be paid there are only two ways of its payment. Either it should be obtained from them who have no cloths to wear, no food to eat, whose children are deprived of education and then it should go to the pockets of those landlords who have been pampering themselves at their cost till now: or that the Government itself should pay it. I may submit that on one side the Government servants are crying and demanding an increase in their pay to combat, dearness on the other side, cottage and home industry requires encouragement in the shape of money. Can the Government, therefore, spare even a penny for compensating such big proprietors? I don't think it can. Further let me point out that political freedom is a sheer fraud as long as exploiters are not exterminated. History bears ample testimony to this fact. The examples of French Revolution and Russian Republic are before us the latter was invaded by the German fascists. The people of Russia faced that power and Germany had been retreat thy sustained defeat because exploitation had been wiped out altogether. Our aim is not only to abolish agriculture exploitation but to remove it from all angles and spheres of life. When we have such an esteemed goal we need not encourage this exploiting element by compensation, because it means in other words to encourage a new kind of exploitation. With these words I second and support the suggestions of Hon'ble M.A.Beg and strongly recommend to the House that no compensation be paid to such big proprietors.

Mr. President, I remember my brothers in the in the other part of our country-the enemy occupied zone-who till five years from hence, were with us our great struggle are today suffering the pangs of the evils of landlordism. This House is sovereign. It must try to liberate them also. Those thousands of workers on the other side of the cease-fire line must be liberated from the shackles of exploitation an aggression of landlordism (Cheers). With these words I beg your leave Sir.

***Mr. Ghulam Qadir:** Mr. President, the report of the Land Compensation Committee is before you. Let me submit a few words before I support it. Major portion of the population of this country depends on cultivation. The tiller has been target of all inhuman and barbarous treatment right from the period of Gulab Singh down to the present day when our Popular Government made him (the tiller) the real owner of the land. Rulers' big proprietors and landlords have all so far been living luxurious lives by exploiting the hard earned income of all the cultivators. Today these aggressors' claims to be civilized powerful or hold a high position in society but in fact they have put in no effort to gain this privilege. The power or influence they have attained is all due to this oppressed tiller. The poor peasant, with his family toils hard on the field, grows crops and provides a chance for the landlord to attain a high position. He, in fact has grabbed the tillers income. The latter remained poor, naked or without food while the former has made himself rich and fat. Qid-Azam. Sheri Kashmir, has after taking all these facts into account, raised the slogan of 'Land to the Tillers'. This slogan reached each and every corner of our land. This slogan appealed to the poor oppressed and down-trodden peasants, who are in majority in our country. Their deepest feelings were stirred and they felt conscious of the fact that they did not enjoy the status of human beings. In spite of his own and his family's hard labour on the field throughout the year he is unable to obtain two square meals and an hour of leisure. The peasant realized that the fruit of his labour is being usurped and that moral and human status is being denied to him. They became conscious. By and by liberation movement gained strength. The peasant was inspired. The feudal Government tried to curb them, but they knew how to defend themselves and so they went ahead. If a man works hard, morality does not demand that his outturn should go to somebody else. It is against justice as well. In spite of the best efforts the feudal class their voice gained more and more weight. A demand was submitted to the Qaid-I-Azam that everybody must be allowed to eat what he himself earns. It was a dream for them to think of their children going to schools and wearing cloths. Could they ever afford to feed their children on bread, butter and milk? The age gave birth to the organization of the National Conference,

which presented the blue print of New Kashmir in the form of a pamphlet to the nation. It was promised in this pamphlet that land will be owned by him who tills it. The exploiting class did not even dream then that their land will be given to those who work on it and who grow food out of it. The booklet "New Kashmir" is a beacon light for oppressed people of Jammu and Kashmir. It is the illuminating star showing us the way ahead. We are trying to achieve the ideal contained in this booklet with the best of our wishes. We have to change Kashmir into Naya Kashmir. All these events, which at present are taking shape, are due to this very inspiring ideal. Soon after our popular Government took over, the grave issue of "Land to Tiller" came up for consideration before the Government. The class of people which made the liberation movement a success and which overthrew the old autocratic and worn out system was this very class of poor peasants. This class of poor peasants. This class of people produced martyrs who made innumerable sacrifices for the cause of freedom. Under these circumstances it was the moral and legal obligation of the Government to relieve them of inhuman and immoral oppression. Keeping this obligation in view the Government took immediate steps. Mr. President, considering the shortage of time let me submit in short that the Popular Government made them realize the necessity of cooperating with her. If the Government will collect compensation from them and distribute it amongst the big landlords, it will mean that this Government is following the steps of the old autocratic regime. In the last Session of the Assembly the House appointed a committee to report about the desirability or otherwise of the payment of compensation. The committee based its report on statements of the witnesses or on historical facts. Regarding this report Chakdars have raised the objection that as the Kisans had abandoned the land for non-payment of land revenue; they managed to pay it and spent huge sums to make it cultivable. It is true that the Kisans abandoned much land in times of Maharaja Gulab Singh and the Chakdars, after paying revenue thereon, made it cultivable. But these people do not know the reality. In this connection I may submit that the circumstances were quite different. The tillers were put to forced labour (Baigar) in Gilgit, Ladakh, Bonii and Banihal frontiers and 90% of them

would not return because they were treated as animals and beasts. There were some who would return after six months but not a single individual was there to look after their homes or fields in their absence. Besides the officials of Maharaja Gulab Singh would rummage and ransack their homes should they only see them in a happy financial condition? They would leave nothing with him. After six months hard labour of a poor peasant would retain a grain himself out of the crop he had himself grown, the savants of Maharaja would search his house. Today I ask those who demand compensation that when these poor peasants were put on Baigar for months together, was any compensation paid for their labour? I would submit that these big landlords who were bestowed with Jagirs by old regime had cleared many jungles (whether belonging to Forest or to Revenue Department). In this way they earned lacs of rupees for themselves and put the nation to loss, will not the Government be justified to demand compensation from them for this loss?

***Mr. Mohamad Ayoub Khan :** The Hon'ble member is going to unnecessary details.

Mr. Ghulam Qadir Ganderbali : Besides, these big landlords gained much wealth from these jungles for example they have tapped the mineral resources which such jungles contained in a unscientific way and destroyed the chances of their future exploitation.

Hon'ble G.M.Sadiq (President):- Hon'ble members should note that although his observations are not irrelevant completely, still he repeats many facts.

***Mr. Ghulam Qadir Gaderbali:-** Alright Sir. With these words I support the report of Committee, which recommends non-payment of compensation to the landlords. Wazir Ram Saran Das wishes that widows, orphans and aged persons should be given some allowance. In this connection we have to see whether such persons have got this land by way of Gift or whether they have paid some money consideration for it. Further, it is to be seen whether 182 kanals of land be left with them so that they should work over it and earn for themselves, or should they be given some allowance instead? Secondly the appointment of the Committee, which is suggested by Hon'ble M.A.Beg, is very important. The

income from the lands of certain religious institutions is utilized in a proper way and while the income from the lands of such other institution is not properly spent. The appointment of the committee is very essential to look into this thing. I request that the committee should present its report at its earliest. With these words I again support the recommendations of the land compensation committee.

Mr. Abdul Kahliq : Sir, I support the report of the land compensation committee presented in the House by Hon'ble M.A.Beg, but at the same I object to the words of Wazir Ram Saran Das occurring in 7th line of page 32 of the report. Mr. Wazir wishes that some allowances should be paid to those of the expropriated landlords who are aged, widows, orphans, minors or infirm. But the problem shall be more intricate if the recommendation is adopted. Aged persons shall pretend to be minors and others shall for no reason pretend to be orphans. I think 182 kanals of land already left with them is in no way insufficient. They can easily earn their living. With these words I support the report presented by Hon'ble M.A.Beg.

Mr. Ghulam Mohammad ; Sir, I fully support the report presented by Hon'ble M.A.Beg.

Mr. Ghulam Ahmad Mir : While supporting this report I submit that the principle which has been the subject of debate has been laid down by the Qaid-I-Azam. I was a child when the slogan 'Land to Tillers' was raised I became nervous at that time and an old man told me that when Sir Lawrence had come to this place, people had got the lands transferred to their names by inviting him to feasts. I said that the righteous demand is always supported by Almighty God. This slogan has made both the tillers and the landlords conscious. Now the landlords are ashamed of their own doing and they are not entitled to any compensation. So far as I am concerned I would like to say that as the landlords do themselves feel ashamed of their action they should not be put to shame more (Cheers), because Sher-I-Kashmir has got equal regard for the cultivator as well as the Zamindar.

Hakim Habib Ullah ; Mr. President and Hon'ble Members of the House.

A voice: Urdu is the language of the House.

Hon'ble G.M.Sadiq (President):- The Hon'ble Member feels difficulty to express his ideas in Urdu. He has been given permission to speak in English.

Hon'ble M.A.Beg (Revenue Minister): Sir, I request that every Member should address the Chair only.

Shrimati Ram Devi : Sir, I stood up to speak first, you did not notice it.

Hon'ble G.M.Sadiq (President) : Mr. Habib Ullah will speak first.

Shrimati Ram Devi : Aright, you can fix the time.

Hakim Habib Ullah : Mr. President, the report of the Compensation Committee has now come up for discussion before the House. Much has been said about it by the Hon'ble Members of the House. It seems that almost all the Members of the Committee are unanimously of the opinion that no compensation should be given to those landlords whose land has been confiscated and transferred to the actual tillers. These landlords have acquired sufficient produce, advantages and many other things from their lands. Justice does not demand that any compensation should be awarded to these landlords. So far as this opinion is concerned, I agree that the report of the Committee is acceptable to all the members of the House. It is true that the peasant has remained under the grips and clutches of the landlords and has not been able to lead a prosperous life in this world. It is true that the property belonged to the peasant and not to the landlord. It is great injustice that the hard earned income of tiller should be exploited by a landlord. I think these persons should not be given any kind of compensation because for a considerable time they got all sorts of advantages from the land. But I want to draw the attention of the House to one main thing which the Hon'ble members of this House have not taken into consideration. It concerns all those landlords who were in possession of the land but due to certain circumstances were not in a position to get the produce of the land. From a perusal of the report I have not been able to find out if any thing will be given to such persons. I would like to quote an example. There is a certain person known to me who occupied some land against cash payment, for a long time. During all this period due to certain circumstances he could not derive any advantage out of

it. The money which he spent on this land could not be got back. This means that he has undergone a loss of, say Rs. 2, 3 or 10 thousands, spend by him for the purchase of this land. I agree that no compensation should be given to those who have derived considerable advantage from the land but a separate provision should be made in the report for the landlords who could not get any profit from their lands. The second thing is, that I have found some contradictions in the report. On page 32 (Urdu it is written).

“No question of recovering the price of lands from them does arise. As a State with limited resources we are too poor to pay compensation from out of the State revenues. The financial liability will be of a very serious nature and payment itself will prove incalculably mischievous. Apart from these considerations there is no moral, economic or social basis for compensation. We therefore, recommend that both on principle and policy, the payment of compensation to the expropriated proprietors is not desirable.”

This is a nice thing indeed. In the first few lines the committee says that no compensation should be given to them. So far as this is concerned I agree with it. But a few lines that follow contradict it. From these lines, it appears that compensation should be given to them. (Cheers).

So I may request the committee to clear the ambiguity of the report. On the one hand they are of the opinion that compensation should not be given to the landlords because they have acquired considerable profits and on the other hand they allege that the Government is not in a position to pay compensation on the ground that the financial position of the Government is not satisfactory. The report contains contradictory recommendations. Does it mean that they are ready to pay if they become financially well off? But such should not be the case. Compensation should not be given to the landlords because they have achieved sufficient advantage by the acquisition of the land. With these words I strongly second the report submitted by the Committee before the House.

***Shrimati Ishra Devi :** Mr. President, I support the Land Compensation Committee which has been presented in the House by Hon'ble M.A.Beg.

Our worthy Bapu treated Harijans as super-souls. It is through the efforts of Mr. Beg that these Harijans have emerged as the owners of the land under the Big Land Estates Abolition act. Mr. Beg also like me tries to follow Bapu. To give land to the tillers is very pleasant. It should be recalled that Manu Ji had also distributed land among the poor. They had felt pleased. Our Sher-i-Kashmir is also known as a religious man by the whole world and his mission is that land belongs to tillers, or to him who works on it. This is a good mission. He has made up his mind to make it a reality. While he was in the Jail he thought out good plan and schemes for the betterment of his brother countrymen. Almighty entrusted him with the completion of these plans and schemes. Today all these good plans are before us. Our Sher-i-Kashmir is trying to win over the Pakistani's and raise the standard of living of the poor. He is feeding the poor and in return they are praying for him. But we must also do something worthy. Maharaja Gulab Singh had gifted away the land to some persons but you have returned it to the real owners. This is right; it ought to have been so. This law is applicable in the case of those persons also who, ten years hence' have purchased this land and since then have earned a lot from it. But in case of those persons who have borrowed money from banks or their relatives and have purchased land from which they have been expropriated without deriving any profit out of it, would it not be bitter if such Banks or such relatives are asked to abandon their claims. So far as religious institutions are concerned a committee may be appointed to look into the matter. In this connection I shall submit that for this Committee there should be more women members because women usually go to Mandirs for Pooja.

***Mr.Chuni Lal Kotwal :** Sir, the world passed through different stages, and the present stage through which we are passing is a common man's age. The period of aristocracy just preceded it. The landlords, despots or chakdars were being helped in every possible way by the old autocratic and despotic regime. That regime made laws for their benefit and shaped the society according to their needs. That was the time when this aristocratic and despotic regime usurped land from the poor peasants, and gave it to big landlords and chakdars through one stroke of pen. A law was made to this effect. The people were so ignorant

and down trodden that they could not raise any objection against it. When the society was not benefited in any way by such laws, naturally such circumstances arose which were responsible for revolution. Our Sher-i-Kashmir gave us a lead in this bloodless revolution. It is only because of his right and sincere lead that we are today enjoying this position. The laws passed by aristocratic regime are not considered worth while today. The time has changed. The time must now provide the common man with all the convenience and necessities. Our leaders and representatives demanded abolition of Big Landed Estates. A committee was appointed for this purpose. Mr. Beg worked as its Chairman. Now this Committee has presented a report. We have to see the desirability or otherwise of the payment of compensation and we must calmly and seriously think over it. We have also to convince the opposite block. This is a fact that when Big Landed Estates were abolished, those who were affected by it kept quite. They might have realized that their possession is based on injustice and tyranny. They realized that the laws passed by the popular Government are just and for common good. Of course, some persons think that as they have inherited this land from their grandfathers so they must receive compensation. but majority of such affected landlords realize that they deserve compensation morally. Let me submit that morality existed even in old times, but its lessons were only read not acted upon. The principles of morality were only cramped and were never followed practically, sympathetic treatment towards the poor used to be preached, but all the same they were robbed of every thing and their exploitation continued. All this was deemed justified according to the laws of the day. Human values are changing. The values of human life are really different in the common man's age, and both the peasant and the landlord are aware of it. The landlord feels in his heart of hearts that exploitation of a poor peasant is unjust and undesirable. So far as the question of maintenance of the expropriated landlords is concerned it is solved by the 182 kanals of land left with them. They should learn to work over it and forget luxurious life. It is then alone that they can live and maintain themselves properly. The age of remaining idle is over. I think that 182 kanals of land is more than sufficient for the maintenance of one family. The

Socialist Party of India after considering all the circumstances have recommended 20 to 25 Beghas of land for the maintenance of one family. If these Zamindars will work on this land properly they can surely live a happy life. Now there remains the question of orphans, aged and others. Let me submit that such questions create hurdles and complicacies. In my opinion these 182 kanals of land cover everything. The poor kisan cannot afford to spend for his two meals; there is no arrangement for the education for his children, they long for medical aid, and our friends dream of the compensation. I wish they could only realize as to who deserves help. To base the foundation of modern society on equality is necessary for the betterment and progress of mankind. The report under discussion is also a step towards it. With these words I support the report as presented (Cheers).

***Sardar Kulbir Singh:-** Sir, I support the motion of Hon'ble M.A.Beg regarding the compensation issue. When we study the subject of the compensation it is necessary to know the circumstances under which this land was transferred to persons who termed as landlords, and amount of profit derived out of it by them from the date of its transfer: and further we shall have to know the circumstance under which this land was retransferred to the cultivators and also the reaction of this change over the country. After considering all these circumstances the question of compensation should be deliberated upon. When we study these facts one by one we arrive at the conclusion that the real proprietor of land was the cultivators and due to some financial or political reasons he was deprived of it by transferring it to a few persons; may be under Raj Tilk Boon under Pratap Code, or in any other shape. How far was such an action justifiable under law or morality much has been said about it. We shall have to limit our deliberations now to the extent of compensation point only. This land was initially owned by the cultivators. They have not been paid any compensation for it. Therefore, the question of compensation to the landlords today does not arise. Those persons, who had purchased it, had done so on the basis of a commercial deal. The real facts and figures have led us to believe that such persons have derived much more profit out of it. Now remains the legal argument which the landlords

advance. It is clear that in the previous age the autocrats were particular to maintain and keep intact their own political structure. Today we enjoyed the privilege of the membership of the party which gives lead to the nation and which had upheld and struggled for the fundamental principles that as long as this idle privileged class exists which enjoys the labour of others fair and equal distribution of production and wealth amongst the sons of this motherland is impossible. If feel that the age of privileged class and of social injustice is over. To think of it today means to be behind the time. I also feel that those seven lakhs of people to whom the land has been distributed are too poor and demanding compensation form them will amount to injustice. What Mrs. Maini has said let me in reply to her submit that we cannot afford to sacrifice public interest for vested interest. Therefore we are of the opinion today that this vested class deserves nothing more. Keeping in view their investment over this land and also considering the profit they have already derived, the question of payment of compensation does not arise at all. Referring to speech of Mr. Ram Saran Dass, let me submit to them that encouraging Jagirdars in any country will be a cause of its destruction, 182 kanals of land as decided by our friends to be left with them is sufficient for their maintenance, and if we give them some extra allowances we lag behind the progressive forces and encourage parasites in our society. The last point referred to in this report is regarding the religious institutions. These institutions have become individual monopolies today. I do not feel that religious institutions contribute towards the betterment of the people of the lands attached to these Institutions play and part in our social development. On the contrary at times these prove a break. Therefore, if any amount is to be sanctioned for these institutions the Government must see that these are run in such a way that they prove of real use to the betterment of the society. With these words sir, I request the Hon'ble members, through you, to pass this report because economic, social and political development of the country and nation has fully been kept in view.

Hon'ble G.M.Sadiq (President) : The House will now adjourn for lunch and will meet at 3 O'clock today again.

AFTER LUNCH

***Mr. Bhagat Ram Sharma :** Hon'ble President, I agree with the recommendations of the Committee, and support it. Further I submit Sir that the Committee amongst various other reasons for non-payment of compensation, has also submitted that we would look to the principle of equal distribution of wealth. Therefore, land was distributed first. On one side are the tillers to whom land has been given, and on the other are the Chakdars who have been expropriated. The Committee in this respect could make its report more concise. We know that 182 kanals of land still remains with the affected Chakdar. He is authorized to select these 182 kanals out of thousands of kanals of land according to his choice. I wish the Committee could record the facts and figures regarding the average amount of land possessed by each cultivator from where it could have been possible to ascertain as to how much land has been given to each cultivator, and whether or not it is possible for him to make his both ends meet out of the income of land so allotted. So far as the question of cultivators is concerned there is no denying the fact that they are not getting even their daily requirements from this land. The reason is that the cultivator has still been left at the mercy of the Chakdars. Whenever a cultivator does anything against the wishes of a Chakdar he (Chakdar) selects the plot of land of that particular cultivator for his own cultivation, thereby depriving the cultivator from his holding. The state of affairs in regard to the cultivator is the same as it was some time back. The cultivators, as has already been stated before are still at the mercy of Chakdars with regard to those plots of land which are near their houses on which the whole family of he cultivator used to live. Even this law has not feed the cultivator from the clutches of the Chakdar, because it still rest with the Chakdar to give or not to give any plot of land to a certain cultivator. On these grounds I would submit Sir, that the question of compensation does not arise and that the recommendations made by the Hon'ble members are perfectly justified. So far as the question of equal distribution of wealth is concerned it still remains unsolved.

There are persons who desire that compensation for land should be given. Our learned friend Wazir ram Saran Das has expressed similar ideas in respect of payment of compensation. He is of opinion that such of the Chakdars as are old, minors and widows should be granted maintenance allowance. I put a direct question to Wazir Sahib, while advocating the cause of Chakdars he has not taken into consideration the condition of those poor people, children, aged persons and widows who have not even two kanals of land. I ask, who has to fight for the cause of the latter class of people and on whom does this responsibility rest? So far the Chakdars are concerned they have already selected according to their desire 182 kanals of land out of thousands of kanals and still anxiety is being expressed on their behalf. Similarly minor Chakdars and widows have also selected land for themselves and the same is being cultivated by the cultivators and they are regularly realizing good amount of rent from such lands. In my opinion it would have been just and equitable if the cultivators would have been permitted to select land for themselves but unfortunately this has not been permitted to select land for themselves but unfortunately this has not been done. In addition to 182 kanals of land and the Chakdars have got thousands of kanals of land in the form of orchards while compensation is being demanded from the poor cultivators who possess very little of land. If investigation is conducted even on the present basis of the land held by the landlords it will be evident that they have got fictitious entries made in the name of their servants and consequently are still in possession of that land. Such cultivators are still at the mercy of big landlords. Today it is said that minors and aged people should be given maintenance allowance. I will submit Sir, that there are hundreds of thousands of cultivators who support minors and widows and who in spite of putting in a large amount of labour are not able to earn even eight annas or a rupee a day. The Jagirdars have again usurped lands and have been sucking their blood. In view of this how far is their demand for compensation justified? They must keep in view the way the wind is blowing. They have already selected 182 kanals of land and can we still say that this land is insufficient for their maintenance? They demand that compensation be paid to

them from the Government Treasury. I will submit Sir, that this is in no way proper and that no compensation should be paid to them.

Mir Assad Ullah:- Mr. President, in regard to the part of the Land Compensation Committee it is to be decided as to whether the proprietors who have been deprived of their lands exceeding 182 kanals are entitled to get compensation or not. On this report almost all the Hon'ble members have expressed their views before the House. Now we have to see as to whom and by whom it is to be paid and on what conditions. On these three points I would like to say something. A glance over the world history would reveal that the whole universe is a God-given and the Nature has ordained that all human being living on this universe have equal claims over the land. The nature or Almighty has not given this privilege to a single man only that he should possess the land on his own accord and thus acquire right of ownership for himself only. If we take this system into consideration we are faced with a question as to whether Zamindars owning land beyond 182 kanals were legally and morally entitled or they were empowered to do so? Taking into consideration these fundamental rights. I would say that the validity given to such ownership was unjustified. This was done by the ruler simply to maintain his autocratic power and with this idea intermediary class of people sprang up through whose help he was desirous to see the poor in distress and despair.

Hon'ble M.A Beg who is the Chairman of this Committee has fully explained the circumstance under which the land was granted or transferred to these big landlords, and he has thrown ample light on the facts as to whether they are justified in claiming compensation. The Chairman of the Committee has fully explained as to how Jagirdars, Zamindars or Patadars came into existence and how they have usurped the property of these poor cultivators. I would say it was the Ruler of the State who deprived the cultivators of their land. He claimed an absolute and indivisible right of ownership over the State land merely on account of his conquests and sale deeds and thus he of his own accord granted land either to his own favourites or to such persons who assured him to extend full co-operation in order to maintain his autocratic power. Lacs of kanals of land

were transferred to Jagirdars and chakdars on the understanding that they would render every sort of help in maintaining the autocracy of the ruler and thus they were allowed to swallow up the whole out-turn of land of the poor cultivators. Such a step was not justified morally. In addition to vast areas of land the Jagirdars already owned, they received large tracts of land under Raj Tilak Boon. Lands have been granted to such persons who were related to or were the favourites of the Ruler. As a result of this policy the present middle class came into being in the shape of Jagirdars and Zamindars. These are the persons who have Assamies in village and have an absolute right of ownership over land. The poor cultivators are deprived of their income which they earn by the sweat of their brow. It is apparent that by fixing 182 kanals of holding for the Chakdars the Committee have kept Chakdari system alive. It was out of a sense of justice that the land held by the big landlords was transferred to these poor cultivators. The question to pay compensation does not arise at all. The report submitted before the House is a result of the great efforts of the Hon'ble members. It is laid down on page 5 of the Report (English version) that the fundamental rights of Indian Constitution are not applicable to our State. We have adopted the principle that the landlords should be deprived of the land in excess of 182 kanals. Some Hon'ble members state that we have poor resources to compensate the landlord. In case they take this point into consideration the force of the principle is reduced. But sometimes it is also said that the question of transfer of 55 lacs of kanals is to be considered and that is not an easy job. If the financial position of our State becomes strong in future, we have no other alternative but to compensate the ex-appropriated landlords. In my opinion, the Hon'ble Members have conditionally agreed to pay compensation. Therefore, it is a contradiction in terms.

“It is true, that the proprietary right in land has been recognized by the State and it is also true, that the Land Acquisition Act of the State does provide for payment of compensation for lands acquired for public purposes. But it is to be understood that the acquisition of land under the State Land Acquisition act is strictly speaking a business deal and the sort of universal land acquisition

scheme (which has since enforced) must be governed by entirely different consideration. It is possible to pay full compensation at the market value of land when the State acquires a small plot for widening a road or building a railway or public institution. But it is neither possible nor desirable to pay compensation when as many 55 lac kanals of land are taken over.”

Sir, with your permission I want to invite the attention of the House to the following lines;

“They well know that the Fundamental Rights as contained in that Constitution did not at all apply to the State. While the Indian Government with its vast resources might be in a position to pay compensation for lands acquired by it the Kashmir Government is fully conscious of their limitations and must deal with their problems in their own say in the larger interests of the country.”

Sir, again there is a contradiction in these lines, when the members of the committee have agreed to this principle of not giving compensation to the proprietors who have been ejected from their lands.

Maulana Mohd. Sayed Masoodi : Sir, Hon’ble Member may be directed not to say anything about any person or member. He should discuss the subject of the report only.

***Mir Assad Ullah:-** Thank you Sir. The report which the committee has presented before the House, has not thoroughly been examined. If we have admitted the basic principle that we cannot afford to provide any compensation then we have to follow it strictly. India has sufficient resources; therefore, she can easily compensate the expropriated landlords. First of all we have to see as to whether payment of compensation is justified or not. For instance one of the big landlords and Jagirdars is the Ruler of Chenani. He is a proprietor of two lacs and thirty thousand of kanals of land. He did not himself put in any labour to make this land cultivable. But all these lands were cultivated by those poor tillers who had cleared the jungle and wood and had brought the barren lands under plough. The man had a claim over this estate only because it was transferred to him under Raj Tilak Boom by Maharaja Gulab Singh. In this respect Hon’ble M.A.Geg has said in lucid terms that the Settlement Officer of the time refused to

recognize the proprietary right, in land of the raja being a relative of the Maharaja he was made the owner of two lacs and thirty thousand kanals of land by a single stroke of pen. This land in reality belonged to cultivators who were tilling it at that time.

Under these circumstances the experts of the Committee ought to have considered that instead of demanding compensation, the landlords ought to have transferred the land to the tillers.

S.Harbans Singh Azad (Parliamentary Secretary) : Sir, I raise a point of order that under Parliamentary practice we cannot make any personal remark in the House.

Mir Assad Ullah : Sir, I mentioned the name of the Raja of Chenani because it exists in the report.

Hon'ble G.M.Sadiq (President):- If the Hon'ble member will quote the particular section of Parliamentary practice, I will think over it otherwise the Hon'ble member is permitted to mention his (Raja's) name for the sake of reference.

S.Harbans Singh Azad (Parliamentary Secretary):- Sir, I beg to submit that not to speak of mentioning his name only, but such facts are mentioned against him which do not benefit the dignity of this House. Besides this if anything is said against him he should at least be present in the House to defend himself.

Hon'ble G.M.Sadiq (President) : I have already said that unless any article of the Parliamentary Practice is quoted by the Hon'ble member, the member is allowed to mention his (Raja's) name.

***Mr. Assad Ullah Mir** : Sir, I was submitting that lacs of kanals of land were possessed by the Raja of Chanani and other Jagirdars simply because it was entered in their names in the Patwar. They could easily get these fraudulent entries made in the Patwar, because none could dare to oppose them. With reference to the mortgage properties I would like to say that if anybody has mortgage his land for sum of Rs.400/- and the mortgagee has derived considerable profit from the principle amount then the mortgaged land can be restituted to the mortgagor. That is why we are saying that those who have usurped the land by undesirable means and

have derived sufficient profit out of it, should return it to the tillers without demanding any compensation from them and the landlords should at least pay some share out of the profit earned from the produce of these estates. But no such law has been enacted in the State. It appears from the report of the committee that the claims of cultivators have been ignored. So far as the question of basic principle is concerned, the committee should have clearly stated in its report that according to this principle we cannot afford to provide any compensation to the big landlords who have already earned a lot from the produce of these estates by sucking blood of the poor cultivators. It is not justifiable to say that the economic position is not sound to afford any compensation for 55 lac of kanals of land. In case we take up the arguments advanced by the big proprietors that their right to property is protected under fundamental rights then none can deprive them of it, they should therefore, be compensated on being expropriated. I am justified in saying that under the law of Nature the land belongs to the tiller. The cultivators who till the land have got this privilege under Natural Rights. It is a separate question if any piece of land is taken by the Government for public works or for constructions of road or school building. Payment of compensation in such cases cannot be questioned. To pay compensation to expropriated landlords whose number is insignificant tells upon 90% of the population. Under such circumstances how can a public interest be sacrificed for vested interest. Therefore, they are not entitled to any compensation and with these words I support the Report presented in the House.

***Bhagat Chhaju Ram:** Mr. President, I support the report of the Land Compensation Committee which has been presented to the House by Hon'ble M.A.Beg and wherein it has been recommended that no compensation should be paid to Zamindars. I have personal experience in this behalf because I had the occasion of being closely in touch with the cultivators. I have witnessed the Landlords squeezing the blood of poor cultivators, who were named as "means" by such big proprietors under whose thumb they used to work. I do not think there is any need to pay compensation to expropriated landlords. They have already obtained good profit from the cultivators, they have obtained not only the grains

from them, but for the sake of their own financial interests they used to over-awe them in different ways. The proprietors had usurped the rights of the tillers, at the time of the distribution of the land in the world. But all the same those persons who were active and intelligent availed of the opportunity and did not give chance to the cultivators to acquire land. My Hon'ble friends have said much about the way these landlords acquired land. I do not want to say anything further in this behalf. While quoting an example one of my honorable friends has explained as to how an ordinary business man acquired possession of thousands of kanals of land. Besides let me submit further that since the date of enforcement of big Landed Estates Abolition Act three crops have been reaped, and the proprietors who have surrendered their lands in favour of the Government, have earned profit out of it not in thousands but in lacs. In this connection I shall quote an example of one Maghar Singh who has similarly earned a profit of at least six thousand rupees. Sir, just imagine how a country can prosper where on one side there are people who have no clothes to wear and on the other side there are landlords who lead the life of luxury and profligacy. But the law of the Nature provides that if the people themselves do not change this inequitable distribution of wealth, such conditions will always be present wherever such mal-distribution hold the day. The resolution moved aims at the betterment and well-being of forty lacs people of one State. The untold miseries inflicted upon the Harijans cultivators of the Jammu and Kashmir State, whom I represent, are indescribable. The report submitted as well as the announcement made by Sher-i-Kashmir is a welcome step. In short I am of the opinion that no compensation be paid to these big landlords and Chakdars. With these words I support the report of the Committee as presented to the House.

***Aga Moh'd Ibrahim Shah :** Sir, it has been mentioned in the Report of the Compensation Committee submitted by the Hon'ble Moh'd. Afzal Beg, as the Chairman of the Committee that a thorough scrutiny has been made regarding the matter of compensation. The said committee came to the conclusion that the Chakdars are not entitled to receive any compensation. Therefore, I support the recommendations of the Committee. In Ladakh and Kargil only one crop is sown

annually and the yield is very low. As against it in Jammu and Kashmir Provinces crops like Saffron, paddy and etc are grown and the yield is very high. Therefore, the limit of 182 kanals is sufficient for Jammu and Kashmir Provinces. But it is not sufficient in case of Kargil and Ladakh because the people will not be able to meet their requirements. Justice and equity demand that a limit of 300 kanals including orchards be fixed for Ladakh and Kargil. The existence of orchards there is of utmost necessity. If you want to do away with arson and injustice the labourers must be given full reward of his labour. As the big landlords have already gained much, the helpless labourers must get the fruit of his toil. With these words I support the motion.

***Hon'ble Major Piar Singh :** Mr. President several members have given expression to their views regarding the desirability or otherwise of the payment of compensation to the landlords expropriated under the Big Landed Estate's Abolition Act. The lands which have been transferred to the peasants originally belong tot them. From time to time these lands have been transferred to the influential persons with a view to buttress the despotic regime. Now that the popular Government has stepped into the shoes of autocratic regime, does it seem reasonable to continue the concessions enjoyed by this limited class of people? It always happened in the past that a protest against oppression was immediately stifled. But now-a-days ordinary news spreads like wild fire in no time through out the length and breadth of the world. It is incumbent on the political institutions to try to raise the standard of the living of the masses. If we just compare the number of expropriated landlords with those who have been benefited by the implementation of the Big Landed Estate's Abolition Act it will be found that the number of the former does hardly exceed 3 to 4 per cent of the total population and number of latter is 90 to 95 per cent. It is necessary for the Government to win over the sympathies of the people. In the past when the imperialist were in the power the assistance of military was sought to suppress the demand of the people. But now-a-days such an action is not in keeping with the democratic principles. Such measures should be adopted to ameliorate the condition of the masses. The Hon'ble members of the Committee had not made

any reference in their report the arguments advanced by the Chakdars in support of the compensation. They based their demand for the compensation on certain facts which I would like to submit before you. Once I met a landlord and enquired from him as to when he had acquired vast tracts of land. He said that at the time of settlement in the State these lands were thrust upon them with the result that many of their relatives who could not cultivate the land and therefore could not afford to pay the land revenue to the Government were put behind the bars. This policy forced their relatives to leave our State. I was amazed to hear all this. It reminded me of a permanent tenant of a Chakdar of my village. The poor man died issueless. There were some of relatives who could inherit the tenancy rights of this land. But the Chakdar forcibly deprived them of their rights. It so happened that the Chakdar carried away even the timber of the dilapidated house of tenant and took the possession of the land where his land is automatically transferred to the owner of the land. Therefore, the assertion of the Chakdar that the lands were thrust upon them does not hold good. If the people other than land owners wanted some land for building purposes the latter always created a host of hindrances. I cannot understand, how, these lands were thrust upon the Chakdars. This is a baseless assertion.

But now the people's Government is in power and it has pledged itself under the leadership of Sher-i-Kashmir to ameliorate the condition of 40 lac of people. The main industry of our country is agriculture and our first and foremost task is to try for its development. The lion's share of the earnings of the poor peasants is taken away by the big landlords and this process continues even at present. Therefore, I am of the opinion that under no conditions will it be admissible to demand compensation from the poor peasants whom the proprietary rights were given. Secondly if the compensation is paid to the Chakdars out of the Government treasury it will amount to the same thing as the Government treasury is filled up by the earnings of the poor. Therefore, no compensation be paid to the owners unless approved by the majority. After all the majority is composed of those very people who have already given the largest share of the produce to the owners of the land. These people are now

awakened by the freedom movement led by Sher-i-Kashmir. If compensation is demanded from them I think it will be difficult to convince them about its justification. Since they are themselves abreast of the conditions prevailing in various countries of the world, it will not be wise to demand compensation from them. Previously they were made to believe that it was a matter of sheer luck that certain people were rich while others were poor and that this distinction was the creation of God. They are now fully aware that it is not a question of luck but certain of man. Such a state of affairs cannot continue further. This question is directly related to law and order. The number of persons who have been expropriated is much less than the number of those from whom the compensation is sought to be demanded. Therefore, this demand is not a just one because of the fact that law and order of the country has to be maintained at any cost. This can only be maintained by the free will of the majority. The Government is determined to raise the general standard of living of the people. It is also the duty of those people who are demanding compensation, to help the Government in this behalf so that we may march together towards prosperity and forget all our differences. With these words I support the motion.

Sheikh Moh'd Akbar : Hon'ble President, I strongly support the report of the Land Compensation Committee presented to the House by its Chairman Hon'ble M.A.Beg. I object to one or two of its points. I shall express this objection later on; first let me submit a few words in support of it. When Liberation Movement started in the State, its object at first was limited to get back for some backward classes of people their usurped rights. When people grew politically conscious they demanded that National Conference should chalk out a Programme for an all good of the country, and under its guidance the movement should advance. Consequently the National Conference adopted the Programme embodied in, Naya Kashmir, National Conference promised to take up the issue of land to the tiller as soon as it would enquire power. Therefore, when the National Conference came in power the people demanded fulfillment of this promise. The National Conference replied that as this problem was of countrywide importance therefore it will be put to the vote of every grown up citizen. Consequently when

elections to the Constituent Assembly were convened, our election stand was that land will be transferred to the tiller without any compensation. People agreed to it, and we won the election. We assured the people that our first task in the Assembly will be to take up the land to tiller issue. It is therefore, that we fulfilled this promise. The landlords have been allowed to retain 182 kanals of land, they did not deserve even this much.

Hon'ble G.M.Sadiq (President):- The issue under discussion at this is desirability or otherwise of the payment of compensation. Retention or otherwise of 182 kanals of land is not under consideration.

Sheikh Mohd. Akbar:- All right Sir, with these words I fully support the report and request the House that compensation should not be paid in any case.

Kh.Ghulam Nabi Wani:- Sir, I fully support the report presented to the House by Hon'ble M.A.Beg. The landlords who have already derived sufficient benefit from the lands by unfair means are not entitled to any compensation and they should not be given any.

***Ghulam Rasul Karaipak :** Sir, in the 20th Century through which we are passing the order of slavery cannot have its own way. The State is inhabited by four millions of people out of whom three millions are living like slaves. The national leaders found out the element of exploiters are responsible for this condition. After full consideration it was decided that persons who had got lands from the Government through influence of due to the existence of some sort of relations with an influential family should be expropriated and that their lands distributed among the cultivators. I would like to point out here that there are some big landlords who have not even seen their lands with their own eyes but get the benefit of the labour of others. I have made enquiries in my own Illaqa as to the means by which these landlords had acquired these lands. The people told me that they were illiterate and forced labour was exacted from them and as they were poor they could not retain lands in their own names. The question is whether the persons who had acquired land by unfair means are entitled to any compensation. To justify the payment of compensation it is said that this is being

paid in Russia and even in India. Even if it may be correct it is not surprising because these countries are far advanced and were not subjected to such exploitation as was practiced here. Here, in this country for every one thousand kanals of land the landlords were given additional one thousand kanals as 'shamlat'. Even under "Raj Tilak Boon" the landlord has derived much benefit. On the other hand the cultivator, who was the real owner of the land and used to put in hard labour day and night, was deprived of all the benefits that accrued from the land. The committee has also suggested that they had no resources for payment of compensation. Does it mean that compensation will be paid as soon as financial resources allow us? In my opinion the question of financial policy of expropriation if a law is enacted in the Assembly to that effect. The Britishers had passed a law during their regime that if a Britisher is murdered by another Britisher, the extreme penalty of law will be awarded in that case, but this principle cannot be adhered to during present democratic age. I would submit Sir, that land should be given to the tillers without compensation and because it is unjustified from the moral point of view to provide them persons with food and deprive ninety of the same.

Mr. Mohamamd Ayub : Hon'ble President, is there any such law to which the Hon'ble Member has made a reference?

Mr. Ghulam Qadir : Will the Hon'ble member please specify the particular English law referred to by him in his speech.

***Ghulam Rasul Karaipak** : I am not aware of any such law but it is an admitted fact that no Britisher has so far been hanged.

Hon'ble M.A. Beg (Revenue Minister) : The accused die their own death.

***Ghulam Rasul Karaipak** : The Committee has mentioned about the administration of 'Auqafs'. We must have supervision over the 'Auqafs' and in this connection an Hon'ble Member has thrown sufficient light. With these words I support the report with the request that the land should be transferred to tiller without any compensation.

***Mr. Moh'd Ayub** : Hon'ble President. A detailed discussion has already taken place on the report of the Committee in regard to the payment or otherwise of the

compensation to the landlords. So far as the report of the committee is concerned, the recommendations contained therein have been discussed threadbare. The Committee after giving strong and solid reason has come to the conclusion that no compensation should be paid to the big Jagirdars because they have already exploited the labour of cultivators to a great extent in view of which the question of compensation does not arise. The Committee by their decision have respected the feelings of seven lacs of cultivators among whom the land has been distributed and if the House approves the recommendations of the Committee it would mean that this representative body of the country has fulfilled the promise which, the years hence, had be made to the poor cultivators. With these words I strongly support the recommendations of the Committee.

Mr.Moti Ram Baigra : Sir, before I support the report of the Land Commission, I want to submit a few words. This was an issue which we, today, have settle with courage. Land is a natural wealth. Nature wanted people to exploit land.....

Hon'ble G.M.Sadiq (President): this House is adjourned today. We shall now meet on Saturday 29th March 1952 at 11 of the Clock.

Mr. President (Hon'ble G.M.Sadiq) : Mr. Moti Ram Baigra

Mr.Moti Ram Baigra : Sir, I had submitted the other day that on setting up of the land Compensation Committee, the only question before it was whether compensation should be paid or not. No other question was included in the terms of reference of the Committee. I have examined this report. In chapter II of the report it is mentioned under the head "Acceptance of the Constitution of India does not imply acceptance of the principle of compensation." That---

"While the Indian Government with its vast resources might be in a position to pay compensation for Lands acquired by it the Kashmir Government fully conscious of their limitations must needs deal with their problems in their own way in the larger interests of the Country.....

Sir, that was not the point here. The National Conference has observed that some individuals have unduly and unlawfully taken possession of the and of our country. It was on account of this that the National Conference came into being.

We have all along been supporting the cause of this National body. We want the land to be allotted to those who are its actual tillers. The conditions of the country took a turn after a prolonged struggle and a Provisional Government of the National Conference was set up under the Leadership of Sher-I- Kashmir and when, this Government prepared a plan for transfer of land to the tiller according to the basic slogan of the National Conference the big landlords of the country raised the question of compensation. Accordingly, when the Constituent Assembly was established, this Committee was appointed only to report with respect to the desirability of paying compensation or otherwise. The question was not that we had no money and consequently could not pay compensation. We fought the election on the basis of “no compensation to landlords.” If we say that we have no money at present, the landlords will demand that they be paid their dues by instalments within a period of twenty years, and in this manner we shall have to face great difficulties. Shortcomings of this nature are present in the report by reason of which it becomes difficult to support it in-toto. Under the head “investigation into the arguments for no compensation” in chapter 2 the report of the Committee reads as follows:-

“.....The reason advanced by the tillers in general and the various progressive institutions of the State are based on the fact that the rightful claimant of the land is he who actually tills it.....”

On the question of non payment of compensation a large number of landlords is with us. I cannot understand as to how the question of compensation could arise when the majority of the people have decided in favour of “ no compensation.” Any reference made to India in regard to this problem is quite uncalled for. The problem of payment of compensation in India was of quite a different nature, but in our country the National Conference fought the election on the basis that compensation shall not be paid to the expropriated landlords. There, of course, exists a law according to which compensation is paid, but such compensation is paid for the lands acquired by the Government for the public use i.e construction of roads and digging out of canals. In the present circumstances the lands that were wrongfully taken into possession by a certain

class have now been wrested back, and restored to the original owners. How are they entitled to compensation? The report which has been submitted needs some changed. I would request the Hon'ble Members to please thoroughly consider the report submitted by the Committee, as ultimately it has to take the shape of a law. The Government are not acquiring these lands for public use but these lands are being transferred in the ownership of the actual tillers. It is for the Legislative Assembly to see if there are such cases which need consideration.

Mr.Assadullah Mir:- Sir, under section 36 of the Rules of Business and Procedure, repetition is not allowed. The Hon'ble Member has been repeating the same arguments which have already been advanced by the mover and other Hon'ble Members. I would request the Hon'ble Member not to indulge in repetitions.

Pandith Bhagat Ram Sharma: Sir, if any Hon'ble Member repeats things in order to develop his arguments he may not be restrained from doing so,

Hon'ble President: I may inform the House that I have not taken notice of this point of order.

Mr.Moti Ram Baigra: In this report it has also been remarked that the tillers to whom lands have been recorded are extremely poor and oppressed and consequently the question of realization of compensation from them does not at all arise. The question before the Committee was not as to where from the money for compensation will come and how to pay. It was not necessary for the Committee to investigate the sources. I would, therefore, request that the report may not be passed as a whole but be discussed by parts. I hope that the House will consider this point. I support only that the part of the report in which it has been recommended that compensation should not be paid. The rest of the report, I think, is irrelevant.

Mir Waiz Ghulam Nabi Hamdani: Sir, your honour has been pleased to ask me to speak a few words on this issue. The Hon'ble Members will not mind if I speak in Persian and I hope will bear with me.

The report submitted by Hon'ble M. A. Beg with regard to the distributed of land amongst tillers without compensation to the landlords is before the House

and is going to be adopted. The Hon'ble Members of the House are pleased with the report and through their speeches have approved of it. I congratulate your honour and the house. In their speeches the Hon'ble Members have clearly stated that no compensation should be paid to the landlords. Before expressing my opinion on this issue. I congratulate Hon'ble Sher-I-Kashmir and Hon'ble M.A.Beg for distribution of land amongst the poor tillers.

My opinion in this behalf is that compensation to landlords should neither be paid by the Government nor by the poor tillers, for the landlords have been exploiting them for centuries and thus deriving maximum benefit from land by deceit and oppression. A question has been posed in the House as to what treatment should be meted out to widows and minors of the landlord. My opinion is that they too should not be paid compensation, for no differentiation can be made between a widow of a Jagirdar and that of a peasant, a minor of a Jagirdar and of a peasant. Every one of us fully aware of the destitution of the peasantry. They have no clothes to wear on; they are deprived of education; they are victims to various diseases; they do not possess any house; cottages made of mud, with thatched roofs are the dwellings of some and others are homeless. If we pay compensation to the landlords it would and minors of the landlords tantamount to the extermination of the snake and tending its suckling.

With these words I recommended that compensation should not be paid to the landlords.

Mr. Ram Piara Saraf:- Sir, I support the report submitted to the House the other day by the Hon'ble M.A. Beg on behalf of the Land compensation Committee. I do not support the opinion of the Hon'ble Members of the House, that such widow and minors as possesses $22 \frac{3}{4}$ Ghamounts of land should be granted some allowance. I also oppose the recommendation made for setting up of an adhoc Committee in respect of religious institutions. The report under discussion is complete as well as reasoned. It has been discussed from different angles. The Hon'ble Members while discussing the report, have taken into consideration, only one view point. It would have been better if other view points had also been considered. As there was no one in the House to represent the other view point it

was left untouched. The arguments advanced for payment of compensation are contained in the memorandum of the Zamindars submitted to the Land compensation Committee. These arguments in support of their view point are such as are historically and faithfully incorrect. One of the main argument advanced is that payment of compensation is desirable both from legal and moral points of view and that every countryman should be compensated in case his land or property is acquired. But I do not think it correct since law is not irrevocable. The class that comes into power frames laws according to its own interests and use these for its own ends. The toiling masses which constitute majority of population have always been a prey to the capitalist system. The society has always been trampling under its feet their interests so much so that these people were deprived of their birth right and were denied even the status of human beings. Social laws have so far been framed by those who had been in power, but with the advance of times man's consciousness has changed. The man today judges every thing on artificial barriers separating man are collapsing. The system in which a few are exploiting a vast majority of people is dying away and is making room for a new order which will end oppression and injustice. It will usher in an age when every one will be supplied according to his needs and will work according to his capacity.

Another argument put forth for grant of compensation is that the landowners have suffered to a great extent as they have derived very small benefit from their lands. If we judge this argument on the basis of facts we do not find it correct. If we examine the statistics and the rates of grains from the year 1939 to 1950, we see how much exorbitant rates prevailed during that period and comparing these rates of food grains with those of today we come to the conclusion that the landowners did not only recover the principle amount but also derived very large benefit from the actual amount invested by them. One more reason given in this behalf is that the landlords have not so far been able to completely recover the amounts invested in lands by them and such they are still highly indebted. Some landlords might, possibly, have yet to liquidate debts, but as is commonly known, they have not spent the amounts or these debts on

improving the lands. These amounts might have been spent on the occasion of marriage ceremonies, on dowries and other functions.(Cheers).

It is further contended in favour of the grant of compensation that the landlords have made considerable investments for improvement of lands. The question is how these landlords acquired lands. This point has already thrashed out by the Hon'ble Members. It is now clear that these lands were acquired either by means of gifts or was directly purchased. So far as gifts are concerned the landlords have stated that they shall have no grievances if compensation for these lands is not paid to them as the proprietors thereof have already derived adequate benefit from such lands. The reasons for the grant of compensation for such lands as were purchased by the landlords themselves are contained in the Memorandum submitted by the landlords. If we probe into the object of such purchases, it will become perfectly clear that improvement was effected by the landlords for commercial and profiteering purposes. The main object has been to exploit the labour of the poor peasant and make maximum profit out of these lands. Wherever these big landlords saw fertile pieces of land they purchased it with the object to make money. Not only did they derive benefit from these lands but they forced the peasant and the members of his family to work for them as well this exploitation continued for generations and I would say that of the object underlying these purchases, is exploitation alone, then such a purchase would amount to a Criminal Act.

Another argument advanced in favour of compensation is that some provinces of India have decided that no land should be acquired without compensation. May be these provinces of India have enough funds, but we do not accept the principle of payment of compensation. While ending feudal system we do not want to lay foundation of capitalism, we do not want to create a class of mill workers instead of agriculture labourers and thus encourage a new type of exploitation. In India today the people's movement with its revolutionary character is being given a setback by granting some concessions. If the principle of granting compensation is accepted it would tantamount to the weakening of this revolutionary movement. Jammu and Kashmir State completely enjoys

internal autonomy and according to the article 370, the Constitution of India in its totality is not applicable to the State.

Sir, I would like to submit one more argument against payment of compensation i.e., every sovereign State has a right to do whatever it feels necessary for the good of its people. Public interests always get first priority and the interests of a few individuals should, as a rule, be made subservient to broader interest of the country. It is only in this way that the principles of equal distribution of wealth can be adhered to. The object of giving practical shape to agriculture plan is to end the unequal distribution of the wealth. The History of the world teaches us that by ending political exploitation we can usher in democracy in the real sense of the words. Our country today is in economic distress. The money that we are asked to pay as compensation should better be utilized for works of public utility and general welfare. The Hon'ble members are well aware of the fact that now-a-days a peon is paid Rs.30 and clerk Rs.50 per month. They have to maintain their entire families with such a small income. We should try to find out means whereby it may be possible for these low paid people to maintain themselves or his money should be utilized for education, establishment of hospitals, public works and other public institutions. I, therefore submit that keeping in view the broader interests of the country landlords, should not be paid any compensation.

One of the Hon'ble members has in the report of the Committee remarked that widows, old men and minors who possess only 22 $\frac{3}{4}$ Ghamoun of land should be paid maintenance allowance. I do not agree with it. There are very few persons who come under this category and each of them has already been allowed to retain 182 kanals for his maintenance. On the other hand there are hundred of thousands of widows and children who do not get even one time meal and who neither possess even a "marla" of land nor shelter. They go on begging from door to door and nobody cares to take interests in them. A recommendation has been made in the report for the appointment of an adhoc Committee in respect of religious institutions. I would invite your honours attention to the "term

of reference” under which the Committee was not authorized to submit recommendations in this behalf. The Committee had only to report whether compensation be paid or not. Accordingly the question of setting up of adhoc Committee does not at all arise.

While submitting the report Hon’ble M.A.Beg had stated that Hariians have been benefited by the implementation of Land reforms. I agree with this statement. Now-a-day the country as a whole is subject to restlessness. This has not only affected the landlords, but the tillers are also feeling uneasy. The discontent amongst landlords can be understood as their interests have adversely been affected but the restlessness among the tillers is not understandable. Instead of becoming dissatisfied it would have been better for them to put a fight to get their grievance redressed. It is quite evident that tillers face difficulties which are not being looked into. Corruption is more rampant and has beaten all previous records. The tillers have already paid a huge amount as a bribe. It would have been better had these reforms been implemented through people’s Committee. At the time of transfer of land these Committees would have made the peasantry conscious of its birth right in regard to the land. But these reforms were implementing through the bureaucratic machinery and are therefore proving a failure. Tillers are being ejected. Red tapism is causing much distress to them and they are not even given a hearing. In the course of transfer of these lands. The land, owners in complicity with the administrative machinery, is trying to render these reforms ineffective. Money tendering agency has been done away with but no new credit agencies have been set up. There are such instances as show that the tillers are not given possession of land although orders for transfer of land to the tillers have been issued. To make these reforms effective, it is essential that a decisive step be taken.

Sir, I want to convey my message to the tillers on the other side of the cease fire line, and the tillers of India and Pakistan that it is high time that they should also struggle for their rights. They have support of the movements of the workers and tillers the world over. Today the man is struggling to cast of the yoke of slavery. No one will stand against the upheaval. A new system is being

shaped under which all men shall have to work for one another. With these words I support that part of the report which recommends that compensation should not be paid.

Mr. Mubarik Shah: Sir, most of the members of this House have spoken against payment of compensation in regard to lands from which landlords have been expropriated under Big Landed Estates Abolition Act. The learned mover has stated that the Committee had toured various illaqas and has found that majority of the people were not in favour of payment of the compensation and that various organizations held the same view. It was also said that the Government is unable to pay huge amounts by way of compensation to these big landlords. This problem has been discussed at length from historical and moral points of view. I would like to say a few words in this connection.

It has been said that we should to a great extent have historical as well as moral justification for framing a law. Besides, they say, that all individuals have a right to the ownership of property and the denial thereof tantamount to the destroying their birth rights. It is also argued that while exercising the right of ownership, the landlords did much in effecting improvement to the land under cultivation, and that it would be unjust if they were not paid compensation, and such a step is likely to disturb social equality. In this way they want to justify the payment of compensation. I submit that only that right which is exercised for the betterment of the society can be recognized. If this right is not exercised accordingly it cannot be recognized. The question is what are the views of individuals and the society. If we agree to the conception that one is allowed to act according to one's own sweet will, it would ultimately result in chaos. The society recognized the right of man to lead a happy life but this can be exercised to that extent alone when it does not retards the progress of others. In this twentieth century it will be out of place to say that the present day social life is not inter linked. In view of this we must share the joys and sorrow of others, and if we have no regard for other joys, we shall have no justification for our own joy. We must discuss the legality of that right. During the course of discussion it has been remarked by some members that there should be no discussion in view of its

being a legal issue and that we should not go deep into its origin. In my opinion to probe into origin of this matter it is essential as to know as how the right of proprietorship was created in the State. This right, as explained by the mover, was acquired in three ways, viz through Government gifts, Nazrana and purchases. In support of this contention the instance of Natipora was cited whereon the previous evening, the inhabitants of the village were the owners of their lands and on the next morning the possession was taken over by the Government. In this way big Chakdars and Landlords came into being.

Hakim Habib Ullah: point of order, Sir, Is it permissible for the Hon'ble member to repeat what has already been said.

Mr. President(Hin'ble G. M. Sadiq): He is developing his argument.

Hon'ble M. A. Beg: Sir, he had started from the origin of this right and it will take some time.

***Mr. Mubark Shah:** Sir, I was explaining how this right had originated and who safeguarded it. I would say that it was safeguarded by that person whose own right had originated in the similar way. Coming to the main point, I shall explain as to who created discrimination between master and the servant. It was a big "Qiladar" who maintained petty Qiladars for his own protection. The reasons for coming into existence of Qiladars like those of Chenani, Poonch, Dupatta, Bijhama, Hunza and Nagar estate are that they strengthened the big "Kila" and made it unconquerable. Under these circumstances how can it be considered just, to demand compensation from the poor tillers? The peasantry had all along been under shackles as a result of the oppression of landlords and consequently the question of payment of compensation does not at all arise. It is being contended on behalf of the landlords that it would be against the principle of equity if landlords are not paid compensation this is a strange argument. I think it would have been against equity and justice if we had not taken any step in regard to expropriation. Equal treatment means that there should be no distinction between man and man, and every person should have equal opportunities of progress. The National Conference had offered sacrifices in order to put an end to the right of ownership; but today landlords say that this right

should remain intact. By taking this progressive step we have removed long standing complaint of the peasant against the landlord. The National Conference, while fighting for rights ownership of the peasant had told the people that the had been sold by the British people through a sale deed and that their self respect demand that they should join the fight to secure the right of ownership for themselves and that they should oppose for all. The voice was not raised only for change of masters, but it was against that right which enable the masters to obtain possession of land originally belonging to the poor peasants. The country was subjected to the feudal system and in consequence of this, the Princes had allowed landlords to purchase as much land as they wanted. No restriction existed there for the purchase of land by them. A person naturally wants to possess at least 100 Or 200 kanals of land for substance, but it cannot be permitted that thousands of kanals of land be purchased by one man and thus afford him an opportunity to hoard thousands of mounds grain for disposal in the Black Market which is immoral and unjust. The question is wherein lies justification for this? It is said that transfer of the right of ownership to the tillers has neither, moral nor historical justification. My submission is that the basis, on which this law has been framed, are genuine and judicious. It has got a moral aspect as well. I may be allowed to quote the following couplet in this connection. There is an awakening amongst the people now and they will in no case allow anybody to usurp the fruits of their labour. This law has not been enforced in the State alone but it is also in force in our neighboring countries, i.e. Soviet Rusia and China etc. It should be noted that the people of these countries shed their blood for the achievement of this object. There the masters tried to suppress the upsurge of the masses but failed in their efforts with the result that the fire which had broken out could not be put out and ultimately it engulfed them and reduced them to ashes to ashes. In our State we have set up an example. We did not allow any bloodshed. Here the master forgot that he was a master rather he was made to forget it. He had to come down to the level of peasant and join the brotherhood.

I have been told that Hon'ble M. A. Beg has got the land of big landlords distributed among the peasants without any compensation. I may submit here that I myself am a petty landlord and when I realized the justification of transfer of the right of ownership to the tiller I arrived at the conclusion that whatever has been done in this connection is called for.

With these words I support the recommendation.

Mr. Mir Qasim: Sir, in the capacity of a member of this Committee and of the House I also feel it my duty to express my point of view.

Mr. Babib Ullah: Sir, I rise to a point of order. The Hon'ble Member is himself a Member of the Committee, the report whereof has to be criticized by us. In view of this the Hon'ble Member may not be permitted to speak on the subject.

Mr. President (Hon'ble G.M.Sadiq): What do you want? Should he not be allowed to speak?

Mr. Habib Ullah: Sir, the Chairman of the Committee has thrown ample light on the subject and the Hon'ble Member, therefore, need not speak further in this connection.

***Mr. President (Hon'ble G.M.Sadiq):** He may speak;

Mr. Mir Qasim: Sir, the report in regards to the desirability or otherwise of payment of compensation to the landlords who have been expropriated under Big Landed Estates Abolition Act is under discussion in the House. Only three aspects of the report can be brought under discussion. In the recommendations one of the reasons given for non-payment of compensation is that the State finances do not permit it, which in other words means that in case of availability of necessary funds the Jagirdars will become entitled to compensation. In my opinion there can be a number of reasons to declare a thing unreasonable. The non-payment of compensation in regard to lands from which expropriation has taken place is justifiable from moral, legal and economic points of view. The financial stringencies should be taken as one of the reasons for non-payment of compensation but this should not be considered as the main reason for the non-payment of compensation. As is apparent this is an additional reasons in support of what is desired to be done.

The Committee has, on three grounds recommended that the landlords are not entitled to compensation. The first is legal ground and in this connection the jagirdars contend that when the state has acceded to Indian Union the rights of property in the state should in all cases be regulated by the Laws in force there and that these laws should equally be applicable in the State as well. But this law cannot apply to this State as there is no binding upon us in this behalf. Here the rights were created by the will of an autocratic ruler and their termination also depended upon the sweet will of an individuals. Rights were not recognized here and it was by reason of this that the lands were snatched away from the tillers and given over to favourit class. Now the question is as to how the right of expropriating big landlords has cropped up and requires an elaborate elucidation. So far as the moral aspect of the problem is concerned I would say that there are different types of rights even according to the moral stand point. These rights are sometimes brought into existence by conception of certain individuals. For instance a tiller who used to grow food grains has to share $\frac{1}{2}$ of the produce with the landlords but actually the share left to the tiller used to be very small and the tiller kept some more of the share determined by the landlords he was labelled as a thief from the moral point of view. Now that the share has been determined as $\frac{3}{4}$ it is also considered to be justified morally and if the Jagirdar retains something out the tillers share he will, no doubt, be considered as an offender. It is clear from this that the morals of a class whose social principles are dominant over the society are generally considered to the governing morals. One the other hand the moral in themselves are not absolutely overlasting and consequently on the basis of these morals the landlords is not entitled to demand compensation for the return to the original proprietor of land usurped by him.

Hon'ble President: - The subject has been thoroughly discussed I would request the Hon'ble member to speak only on points as have been raised against the report. Discussion of on other points would amount to waste the time of the House.

Mr. Mir Qasim:- All right Sir. Two or three points have been brought under discussion in the House. Firstly, it has been said that the recommendations made in the report are contradictory. In this connection I would submit that we have replied to different arguments advanced before use by the people of various interests. It was necessary to do so. Secondly, it is objected as to why it has been mentioned in the report that “the State do not possess sufficient finances to pay the compensation”. It would mean that the landlords are entitled to compensation and that their right has been acknowledged. In this connection I may state that the committee has admitted the principle that the landlords are not legally entitled to compensation. The chapters referred to in the report or only in reply to the arguments advanced by the big landlords and there is nothing to be worried about. In the concluding portion of the report unanimous opinion submitted by the committee is that no compensation should be paid.

With these I support the motion.

Mr.Assadullah Mir: Sir, I rise to a point of information.

Mr. President (Hon’ble G.M.Sadiq) : Will you please speak in urdu?

Mr.Assadullah Mir : Sir, the Hon’ble probably remarked that the fundamental rights provided in Indian constitution do not apply here. Fundamental rights of the citizens of the State have also being hinted at the report. As the Hon’ble member is also a member of the Committee, I would request him to please throw light on the fundamental right of the citizens of the Jammu and Kashmir State.

Hon’ble Prime Minister: Sir, he intended to seek same information but has stated delivering a regular speech.

Mr. President (Hon’ble G.M.Sadiq): Addressing Mr. Assadullah Mir you will please state the point in regard to which you want information.

Mr.Assadullah Mir : Sir, I want to enquire from the Hon’ble member the definition of a fundamental rights contained in the constitution of Jammu and Kashmir State, and the interpretation thereof. Are the fundamental rights embodied in the former Constitution of State still applicable?

Mr. President (Hon'ble G.M.Sadiq): The point can be raised in the High Court alone.

***S.Harbans Singh Azad:** Sir, I want to make a few submissions in support of the motion put forth before the House by Hon'ble M.A.Beg.

In his famous book "War and peace" the great Russian writer Tolstoy wrote that in Britain once a tiller was picking up chest nuts from a garden belonging to a Duke. In the meantime a servant of the Duke entered the orchard and asked the tiller why he was picking up the chest nuts and did he not know that it was the Duke's orchard. The tiller replied that he knew the orchard belonged to the Duke and he further enquired whether it was not within his rights to pick up even the fallen nuts when the orchard was laid out by his labour. He further told him that the Duke would not harm him even if this fact comes to his notice. Where was the Duke when the trees were being planted? Similar was the case of lakhs of tillers in the State. They were subjected to repression, In this way 75 lakhs of kanals land were taken away by landlords from the possession of the tillers. The ruler exercising his powers had snatched away lakhs of kanals of land belonging to the peasants. We have therefore every right to change those laws. I may submit that implementation of Big Landed Estates Abolition Act is not a new thing. Today Russia, China, Poland, Hungary and various other countries, whose total population is about 1009 crores, are treading the same path. If 100 crore people out of 233 crores of total population of the world have taken such a path why are we being accused of following Communist principles. The National Conference had not raised this slogan after coming into power but it had announced in 1994 that the tiller alone should be the proprietor of the land. During the course of elections, when we asked people to vote for the National Conference party we had clearly laid down in our election manifesto "that the National Conference stood for the land to the tiller." The result was that all candidates nominated by the National Conference were returned. All of us know that law for abolishing Landlordism has been framed according to the wishes of the people. If a Raja or Maharaja could on the basis of a law framed by him, distribute 75 lakh kanals of land amongst the jagirdars, we also have a right to

frame such laws by which we can distribute the land amongst the tillers. It has been said in the report that 55 lakh kanals of land are being distributed amongst tillers and if only Rs.5 per kanals were demanded as compensation the amount so demanded would be to the tune of two crores and seventy five lakh rupees, But in view of the condition of the tillers it is an injustice to demand such a large amount from them. In my opinion, therefore, the question of paying compensation does not arise. I know it personally that landlords had acquired thousands of kanals of land for eight annas worth of stamp paper. These landlord may be asked as to how much have they gained on this petty investment of annas eight. And after they have derived benefit for scores of years it would be now unjust from moral, legal as well as economic points of view to demand compensation from the tillers. The case is like that of a house unlawfully taken into possession by a person who when asked to evacuate it in favour of its owner would demand compensation on the ground that he lived in the house and made improvement in its condition. This demand would be unjust. Today when we are taking away land from the landlords we are at the same time leaving with them 182 kanals of land along with their orchards, fuel and grass reserves. Are they not sufficiently compensated in this way?

With these words I support the report and submit that no compensation should be paid

Hon'ble M.A.Beg: Sir, since practically all the members of the House have made their speeches and expressed their view points, the mover may be given an opportunity to wind up the debate.

Shri Mohammad Akbar: Sir, I beg to oppose the suggestion made by Hon'ble M. A. Beg. In view of the great importance of the report, I think, every member should be given a chance to express his views and the debate should not be wound up.

Mr.President(Hon'ble G.M.Sadiq): Before winding the debate on the report, I thing it proper to put before the House the question whether the debate be concluded or continued.

Note:- The majority desired to continue the debate consequently the discussion continued.

Mr. G. M. D. Hamdani: Sir, some of the arguments advanced by the learned mover while moving the resolution, are correct and some incorrect. The report has been thoroughly discussed.

Mr. President (Hon'ble G.M.Sadiq): Do you want to bring up an amendment?

Mr. G. M. D. Hamdani: No sir, while before I support this report I want to make a few submissions. We submitting the report before the House the learned mover explained that 99.9% of the tillers amongst whom the land has been distributed are poor and destitute.

Mr. President (Hon'ble G. M. Sadiq): A motion with regard to the winding up of the debate was just put before the House. The House thereon has decided that the debate should continue. But I would like to invite the attention of the House to the fact that the House has so far been discussing the report presented by Hon'ble M. A. Beg. In fact the final resolution on the report has not been placed before the House as yet. Fresh discussion will be held when the resolution is moved and the Hon'ble Members will have another opportunity to express their views. If the discussion on the report is continued in this manner. It will involve much time. I therefore, suggest that Hon'ble M A. Beg may wind up the debate if the House thinks it advisable.

Hon'ble Sheikh Mohd. Abdullah: Sir, you have taken the sense of the House in regard to the matter and in respect of which it has been decided upon to continue the discussion. I also think it proper that so far as the consideration motion pertaining to this report is concerned, the discussion may be allowed to continue. There are certain points in the report in regard to which some Hon'ble Members have yet to express their view. It was in view of this, that the House thought it proper to continue the discussion. You have given a ruling also in this connection. The question of winding up the discussion does not, therefore, arise.

Mr. President (Hon'ble G. M. Sadiq): I have not given any ruling but have only made suggestion after taking the sense of the House which I would like to repeat. Some defects in the report have been pointed out by certain Hon'ble Members

who desire deletion of some of the portion of the report. I am, therefore, of the opinion that when the discussion is concluded it will not be possible to give effect to the suggestion made by the Hon'ble members to delete certain portions and it would be in the fitness of things if Hon'ble M. A. Beg moves his resolution and the Hon'ble Members bring forth their amendments to this resolution. Through these amendments the portions referred to could be delete with the permission of the House and the discussion could be conducted on definite lines. The discussion at present is of a general nature and consequently we cannot arrive at any definite conclusion on the basis thereof. It would be my duty to put before the House the report in a consolidate form and it is up to the House to approve it or not. I have not at all spoken against the holding of discussion but have only made a suggestion that by continuing the discussion the very object of the report will be defeated. Inspite of my suggestion the House can continue discussion, if it so desire.

Mr.Mohammad Akbar: Sir, the object of the motion introduced by Hon'ble M. A. Beg is to take into consideration the Committee's report the different aspect whereof are being discussed and brought to light in the House. When that stage is over, the next stage will commence and then M. A. Beg will introduce a motion before the House, that the report be adopted. It will then be within the rights of the Hon'ble Member to support the motion or to oppose it. As the present motion has not been fully discussed we cannot proceed further.

Hon'ble M. A. Beg: Sir, I have to make a few submissions in regard to the consideration motion. Sir, you alone can guide the House in the matter. My submission is that the motion for introduction is the first motion and the consideration motion, is a second one. Both these motions entitle the House to hold a discussion. The fist motion i.e., the introduction motion is moved in respect of a bill and the consideration motion in respect of a report of a Committee is moved thereafter. In this connection I would submit.....

Voice: please speak in Urdu

Hon'ble M. A. Beg: Sir, I began to speak in English for there were some technical terms.

Mr. President (Hon'ble G. M. Sadiq): please continue your speech in Urdu.

Hon'ble M. A. Beg: In my opinion both these motion i.e. introduction Motion and Consideration Motion provide an opportunity to the House to discuss the Bill or the Report introduction motion is the first motion to introduce a Bill in the House and consideration motion is the first motion to submit a report before the House. My submission, therefore, is that for consideration of the report the discussion on basic principle thereof may kindly be allowed.

Mr. President (Hon'ble G. M. Sadiq): I think there is a slight misunderstanding. The presentation of the report amounted to introduction, and "Consideration motion" allowed general debate place. I had made these suggestions to the House to avoid discussion.

The motion has been put in a regular manner and the discussion is going on according to the procedure. I think you should continue the speech.

Mr. G. M. Hamdani: Sir, the report says that 75 lakhs of kanals of land were distributed amongst peasants and 99.9% were such as were allotted land under certain considerations. I do not want to repeat what those considerations were. My submission is that no right is created without consideration. There was some consideration which gave rise to this matter. These considerations have been thoroughly discussed in the report. It has also been explained how and on what reasons big landlords and influential persons were allotted land. The main reasons for such allotment was that the meaning of these two classes used to suppress the people. Laws were framed in accordance with the wishes of these people man made and not revealed by God. Laws are generally, catered to the needs of society and the Government also frame laws with due consideration to the demand of the time. We cannot, today, recognized the right of those whom the feudalistic constitution had provided with concessions. This cannot be done at a time when it is demanded that fruits of labour should go to the tillers. We have to frame such laws as do not provide for any exploitation and loot. Some of the Hon'ble Members have already stated that the step taken by us is quite desirable in view of the speed in which the global exploitation is coming to an

end, especially in Asia I feel it necessary to state that Landlords need not feel worried with the way in which the land has been distributed. They have been allowed to retain, besides 182 kanals of agriculture land, orchards, willow plantations and pastures. There are many points in the report which need to be explained. As Hon'ble Mir. Qasim has said we admit that it is not the opinion of the Committee that no State has resources to pay compensation to the landlords and that this fact has been mentioned only by way of reply to the arguments advanced before the Committee by the landlords but the manner in which these views of the Committee. We have to decide without any reservation and discrimination that with the exception of 182 kanals left with the landlord, he should not be paid any compensation for the land taken away from him. So far as religious institutions mentioned in the report are concerned, I would submit that to make any discriminations in law would defeat its purpose. The report requires certain elucidations and we have put the thing in the form of a resolution. 182 kanals of land which has already been allowed to be retained by each landlord is enough for their livelihood. They are, in no case, entitled to any more compensation. With these words I request the Hon'ble mover light on the points which require explanation and submit before the house, recommendations in the form of a definite resolution. By adoption such a measure we wish to set an example for whole of Asia.

Kh. Ghulam Nabi Wani(Lolab): Sir, before expressing a few words in support of the report, I submit that consideration of the question of payment of compensation is not only against justice but reminds us of the oppression through which the landlords had taken away the land from the poor peasants. The landlords have already been greatly benefited by exploiting the labour of the tillers and if a tiller today receives back his right it would be un just to raise the question of compensation.

Mr. friend, Hon'ble Ram Piara Saraf has said in his speech that the representatives of landlords are not present in the House. I think his statement is incorrect. This House represents whole of the country. Many of our friends, whose thousands of kanals of land are being distributed amongst tillers, are

present in the House. These friends, for example, are Hon'ble Gulam Moh'd. (Salar) Wazir Ram Saran Das etc., we have also amongst ourselves such Members in the House to whom land is being distributed or has since been distributed. They have supported this resolution.

The question arises as to what for compensation is required to be paid. It is quite clear that the land is being allotted to the heirs of those tillers from whom it was taken away. And nobody can deny the fact that the fruits of these toiling tillers were usurped by the owners existing only on paper. Our country is on the road to progress hence the tiller should also be liberated. Payment of compensation is quite undesirable. So far as the landlords are concerned, they have derived much benefit out of the lands and have made properties worth millions of rupees. Instead of realizing compensation from tillers they deserve share from the properties acquired by the landlords without agreeing to the resolution moved by Hon'ble Wazir Ram Sara Dass and the motion for appointment of an adhoc Committee. I support the original motion and on this occasion remind you of the prediction made by Qaid-i-Azam Sher-i-Kashmir.

"That fragrant breeze is soon to blow which would bring comfort to the poor and cause restlessness amongst the rich."

Mr. Ram Chand Khajuria: Sir, the Land compensation Committee has submitted before the House a report regarding the payment of compensation or otherwise. While agreeing with the major part of the report. I differ with it to some extent. With the advance of time the genuine demand for termination of feudalism, abolition of landlordism and equal distribution of wealth, of course, has been satisfied. But so far as the question of payment of compensation is concerned.

Mr. President (Hon'ble G. M. Sadiq) : The Hon'ble Member will please speak slowly. The reports do not follow him.

Mr. Ram Chand Khajuria : I would firstly point to certain shortcomings in the Land Revenue Act.

While fixing up units of 182 kanals under the Land Reforms Act; the unusual productivity of land has not been kept in view. For example, the yearly

produce Gahumaon of the fertile and irrigated land in Kashmir Valley and Tehsil Rambirsinghpura, Jammu is 40 to 45 maunds of paddy or 30 to 35 maunds of wheat, maize etc. Country to this the yearly produce of land in Ladkh, Kishtwar, Kandi and other hilly illaqas is hardly 5 to 10 maunds per Ghumaon i.e about seven or eight time less than the produce of Kashmir Valley and Tehsil Ranbirsingpora. This difference has greatly effected the landlords as well as the tillers of the concerned areas.

Hon'ble M. A. Beg: Whatever the Hon'ble Member is reading is irrelevant,

Mr. President: (Hon'ble G. M. Sadiq) : I want to inform the House that the Hon'ble Member can use notes but cannot read a written speech.

Mr. Ram Chand Khajuria : Sir, I think there exist no such rule. In case there are rules these may be shown to me.

Mr. President (Hon'ble G. M. Sadiq) : You can use the notes but cannot read the full speech.

Mr. Ram Chand Khajuria : Sir, there exist no such rules.

Mr. Assadullah Mir "The Hon'ble Member wants to be supplied with the rules.

Mr. President : (Hon'ble G. M. Sadiq) : Mr. Allau-ud-Din will please begin his speech.

***Mr. Allau-ud-Din:** Sir, while supporting Hon'ble M. A. Beg's report I would submit that compensation can be demanded for each and everything acquired by dint of labour. The landlords have reaped good profit from the amount they had spent on land. They have made fortunes. For centuries the poor peasants were oppressed but on the other hand the landlords were enjoying the luxurious life by exploiting their labour. They still hope of seeking such means that would enable them to continue this state of affairs. Nothing happens in this world without the will of God. The Holy Quran teaches us that man is duly paid for his action. The landlords were conscious of the fact that they have acquired land through usurpation and it was because of them that the poor peasants were leading oppressed life. How could these oppressed people have opportunities of getting

education when they had not time even to think over. It was our respected Leader Qaid-I-Azim Sher-I-Kashmir who made them conscious and made them realize that it was within the rights of a man to raise his voice against oppression. The movement led by the National Conference attained ever-increasing strength because it was based on truth and justice and one who fights for truth and justice meets with success.

With these words I support the move.

It is an admitted fact that we are being opposed and were opposed in the past. The landlords will not praise us as they are against us: because their vested interests, have received a set back. Our Qaid-i-Azam has, with courage and boldness, defeated these forces of tyranny and oppression. They are justified if today they do not support us.

“Riches engender slavish mentality; it lowers down the poor in the esteem of others. Riches sometime sharpen the understanding of people if they are already endowed with that faculty”(Cheers)

A man who follows religion is always endowed with wisdom and the who worship the God of Mammon ignores religion and is dehumanized. When he degrades somebody, he gets degraded and when he wants him to be prosperous, he prospers. The days of landlord's are over.....(Cheers)

The days of prosperity of others have come. The Government makes no discrimination between friend and foe because the Government is like the sun that ripens alike, the crops sown by friend and foe. I have already spoken that nothing happens in this world without the will of God. If a certain Government opposes a certain matter it is from God that this opposition comes. If Government pays compensation to landlords it would be injustice. If these cruel persons are granted compensation it would mean.

“Compensation on ferocious tigers and cruelty to Sheep.”(Cheers)

The class of landlords is wise enough to understand that the demand of compensation on their part has no ground. For centuries they have oppressed us and are still trying to keep us as serfs.

With these words I support the motion moved by Hon'ble M.A.Beg and strongly appeal the Hon'ble Members of the House that they should build up a new order to ameliorate the condition of the poor tillers. Keeping in view the well-known maxim: "The best among the people is he who does good to the people."

Mr.Ghulam Qadir Massala : Sir, I also want to speak in.....

Mr. Moti Ram Begra: Sir, I raise point of order. No Member of the Committee can speak on the motion because it is the report of the Committee that is under consideration.

Mr. President (Hon'ble G.M.Sadiq) : Every Member of the House, whether he is a Member of the Committee or not, has a right to speak on this issue.

Mr. President (Hon'ble G.M.Sadiq): Every Member has moved in respect of the Report of the Land Compensation Committee by Hon'ble M.A. Beg. I submit that the main object of the 20 years fight for freedom, under the leadership of Sher-i - Kashmir was to relive the toiling masses from feudal exploitation. When political freedom was achieved the leaders of this National Conference held the reigns of the Government and adopted revolutionary measures of Land Reforms to set right the economic condition of the country which had worsened.

Mr. President (Hon'ble G. M. Sadiq) : The session is adjourned for lunch and will meet again at 2.30 P.M,

(After Lunch)

***Mr. Ghulam Rasool Kar** : Sir, the persons affected by the Land Reforms Act naturally became displeased. They argued that the present Government had no right to distribute their land. But when realized that the Government were legally authorized in this behalf they argued that the Government could not distribute land amongst tillers without payment of compensation As for the first argument,

the landlords thought that land was allotted to them by of the goodwill of rulers and as they had helped the rulers in their plans of subjugating the country, the had full rights on land.

I may submit that a criminal always tries to get himself acquitted. Though a criminal is conscious of the crime, he has committed yet he makes efforts in a Court of Law for his exoneration. Similarly, arguments are advanced by landlords for payment of compensation. We should not be displeased with them. We kept in view the Policy speech delivered by our Qaid-i-Azam. We also heard their arguments patiently and tried to fully investigate into this matter in order to put such a report as would leave no room for anybody to say that injustice has been done to him. In democratic countries whenever such important issues are to be settled, the people alone decide them with their own will. There are three democratic ways of deciding an issue. Firstly, the people of a country assembled at a certain place and are asked to express their opinion: Secondly, the people are asked to elect their representatives to decide this issue; or thirdly, the public opinion is gathered through Press and Platform. It was with this intention that we fought Constituent Assembly elections. The main item of the programme that we put before the Government was that landlordism would be abolished and land will be distributed amongst the peasants without compensation.

Mr. President (Hon'ble G. M. Sadiq) : The Hon'ble Member is going of the point under discussion.

Mr. Ghulam Rasool Kar: My submission is that we gave gathered public opinion in respect of the desirability of the payment of compensation or otherwise to big landlords for land distributed amongst the tillers. The majority of the people demand that no compensation should be paid to landlords. The report submitted by Hon'ble M. A. Beg may, therefore, be adopted by the House.

Mr. Ghulam Qadir Massalah: Sir, under the Big Landed Estates Abolition Act, land has been transferred to the deserving tillers. On transfer of land to these people the big landlords have demanded that they be compensated for it. In this connection a Committee was set up in the previous Session to clinch public opinion from every part of the country and to report as to how far the demand

made by the landlords was genuine. Accordingly, the Members of the Committee toured different areas and elicited public opinion of the country submitted, after consideration of all the aspects of the issue, a report in the House. The report says that landlords do not deserve any compensation. My submission, in this behalf, is that many years ago, the National Conference, the only organization which is serving millions of people of the country has laid down its ideal in "New Kashmir". A chapter of this programme under the head "Right of Peasants". It assures that when the sovereignty is transferred to the people of this country the whole of the land, that has been taken possession of by some individuals who exploit others and lead a luxurious life, will be transferred to the tillers who were in possession of it as cultivators. The report that has been submitted today on behalf of the Committee supports the rights laid down in "New Kashmir." All the Hon'ble Members with the exception of Wazir Ram Saran Dass agree with this report. In the opinion of Wazir Ram Saran Dass, widows, orphans, destitute and disabled persons should be granted some allowance. I would like to ask a question: Have not the people who have been in the possession of land derived maximum benefit out of it? Should we transfer the land to their widows and minors? Obviously it would be injustice to the deserving. As regards the religious institutions the Committee in its report says that an Adhoc Committee be set up to see their interests. I think the people who have great regard for their religion can maintain these institutions privately.

I support that part of the report wherein it has laid down that landlords should not be paid any compensation. Other demand made in the report should be deleted and the report given a final shape.

Mr. Mohammad Anwar Shah Masoodi : Sir, I do not intend to speak any more on the subject which has been before the House for the last three days. It has already been thoroughly discussed. I will only submit that I am in complete agreement with the first part of the Committee's with the first part of the Committee's report. Nothing can prevent me to say that the path we have chosen will set an example for the whole world. Kashmir can claim with pride that the leadership it has provided will guide other countries and nationalities. The

Hon'ble members of this House have pointed out that payment of compensation to the big landlords i.e. the absentee landlords or making recommendations this effect is contrary to justice and fair play, since they have been indulging in luxuries by usurping the earnings of the poor peasants. The above-mentioned statement of the Hon'ble members, I may submit is absolutely correct. It would have been much better, had the committee recommended to recover even that share of the peasantry which used to be taken away by the landlords till now. However this is an opinion. So far as the question of payment or non-payment of compensation is concerned, I am of the opinion that the landlords are in no way entitled to it. Because even now the committee has treated them magnanimously. As is evident from the Committee's Report (page 31) the Jagirdars, can retain, besides 182 kanals, a good portion of their lands in the shape of orchards etc. if in addition to it, compensation is granted, it will be unfair and will not be acceptable to us. Moreover allusion has been made to the widows and the orphans. I think it will be better to give them land rather than any allowance. As is mentioned on page 32 of the said Report, it is apprehended that monetary help might turn them into idlers and profligate. They may thus prove to be a burden for the society. They will have to change with the changing times and work on the land.

In this connection, I would like to say that it gives me a great pleasure when I see that the National Conference has fulfilled one of its important promises by taking over land from the few and distributing it among the poor peasants. It is by reason of this, that the National Conference can take pride. I do not want to go further, but only want to support that part of the Committee's report about which I have expressed my views.

***Mr. Ghulam Ahmed Dev: Mr. President:** The House has proved to the hilt that compensating the expropriated landlords is morally, politically and economically incorrect. In the social structure that the National Conference wants to establish in this country, labour will become its basis. The way the Jagirdars and Chakdars have acquired lands is a proof of how people's rights were trampled under foot. The system of settlement which was prevalent formerly cannot

continue now. The peasants who had worked regularly for the landlords were in return subject to excess by them. The Jagirdars did not confine themselves to these excesses alone but used to recover levies and gifts from the peasants on different occasions. Now we want to shape the order of things in quite different manner. It is, therefore, necessary to take steps accordingly. The National Conference had assured the people that as soon as it will assume the Governmental powers, it would take necessary steps to do away with the exploitation. By distributing land without compensation it is proposed to give relief to the suffering peasantry. This measure will result in the economic betterment of our downtrodden people as well as the country as a whole. Till today we have been working for our self-interests and were not inclined to help the poor. But our efforts should be to provide the poor with employment to enable them lead a comfortable life. Until now the peasants and the landlords of our country were divided into two antagonistic the inherent contradiction in their interests. Under these conditions they used to come into clash with each other. It was for this reason that we warned the nation of the impending catastrophe. Those of our colleagues, who owned lands took heed of our warning and have extended their co-operation to implement this historic decision. Upto this day the peasant was considered as a nomad and was deprived of all the tenancy rights. We and our organization, the National Conference have decided to leave a reasonable portion of the landlord's with them and distribute the remaining portion among the peasants. The peasants have now full rights on these lands. This decision of ours is based on justice and equity. Therefore, I will request the House to unanimously endorse the decision of abolishing landlordism without compensation. With these words I support the report which was presented by Hon'ble M.A.Beg as the Chairman of the Committee.

***Mr. Ghulam Mohammad Beg:** Sir, the report which was presented to the House by Hon'ble Mr.Beg as the chairman of the Land Compensation Committee is under discussion for the last two days. Much has been said about it by the Hon'ble Members. However, I would also like to say a few words before the House on conclusion I have arrived at.

The report in itself is a comprehensive and detailed one. The method the committee adopted has been explained with precision. They need to be congratulated for it. We find in the report, both the views of the landlords as well as those of the tenants, who are to be benefited by the abolition of landlordism. The old records were also studied by this Committee and the conclusion was drawn by them that those who have acquired lands were used as proposed for the autocratic system. The landlords received the lands as royal gift. The Committee had also observed. While studying these reports that the lands which were brought under cultivation by the sweat and toil of the peasants were given to the favorites of the autocracy. The Committee has in view of this recommendation that the toiler must be given back his right, and the National Conference came into existence, achieves this object.

The Land Compensation Committee which was set up by this House is unanimously of the opinion that in no case compensation be granted to the landlords. We find three basic points in this report. firstly the expropriated landlords should not be given compensation. On this point all of us agree. If fully agree with their part. The other point which is to be found in this report, is the same about which Mr. Wazir has expressed his disagreement. But so far as the question of compensation is concerned, he also agrees with us. However, he wants that compensation should be granted to the orphans and the sick. In this connection I beg to submit that there are widows, who own 22 thousand kanals of land and yet we are expected to be sympathetic towards them. If this principle is adopted the women folk of this land would like to become widows of this type (laughter). As far as the question of the sick is concerned, I will submit that quite a number of people have become ill, because land alienation has caused heart burning for the most of them. An ailing man of their type can secure a medical certificate easily. Their sickness is understandable, since they have lost their ill-gotten wealth. Therefore, I beg to differ with both of these suggestions. Thirdly, reference has been made with regard to an Adhoc Committee. As far as the general economic condition of Kashmir is concerned, the National Conference has a separate scheme under consideration. In order to ameliorate, the economic

condition of Kashmir, the programme of New Kashmir can become the best guide. One should not forget that we have at present a popular Government in the country, which is completely sympathetic towards the poor. Therefore, I would like to submit that this question will be tackled at time when such of the measures will be considered, by which we can ameliorate the economic condition of the masses. Obviously this question is linked up with the economic planning. With these words I whole-heartedly support the Committee's report, wherein it has been provided that 182 kanals of land should be left with the landlord and the rest should be expropriated without compensation.

***Mahasha Nahar Singh:-** Sir, we find in the report of the committee that it was within the terms of its reference to ascertain the wishes of the people with regard to the question of compensation. In this connection the committee visited many places in Jammu province. The landowners complained that they had retained the lands simply because the tenants were not in a position to pay the land revenue and that the landlords had spent thousands of rupees to make these lands cultivable. Besides they had been helping the tenants in every way but despite this used to run away and leave their lands uncultivated. Therefore, they say that they should be granted compensation. But on the other hand the tillers argued that the previous Governments and the landlords used to extract BEGAR from them and consequently they were forced to flee from their respective places. These tenants were forced to submit to this evil. It was also pointed out that the names of tenants were not entered in the records by the officers at the time of their visits despite the fact the lands were actually cultivated by them. The tenants used to raise the cattle of the landlords and their houses were also constructed by the peasants. The peasants of Jammu were asked to provide BEGAR for carrying luggage to Kashmir. In Kashmir province the Land Compensation Committee was told by the peasants of Handwara and Sopore that they were tillers and the real owners of their lands, but once there came a Wazir Wazarat i.e. (Deputy Commissioner) who ordered the peasants to give up their lands, and when the peasants resisted they were arrested. After fifteen days the land was taken away from them. A similar story from Kulgam was also

brought to the notice of the Committee, Wazir pannu got a “patta” on the basis of which he asked the peasants to give up their lands. The peasants have been cultivating these lands since long; and had laid out orchards and consequently refused to surrender. But the Wazir started a “region of terror” and the peasants were forced to submit. If the committee had been empowered it would have refused to leave an inch of the land with the landlord, because a judge will never give any share of the looted property to the thief. Further I may submit that I consider it an injustice to the peasants to allow 182 kanals of land to be left with the landlords. With these words I support the committees report.

***Mr. Abdul Ghani Trali:-** Sir, most of the Hon’ble Members have spoken on the motion moved by the Hon’ble Mr. M.A.Beg. The question is whether compensation should be granted or not. But the question arises from whom the money it is to be given. Have we extract money from those, who have been living a life of poverty and misery for hundreds of years, and give it to those who have been living in luxury. Who is real owner of these lands? The friends from Aminabad and Kangra against whose names thousands of kanals of land were entered? This was done because of expediency. In reality the then rulers created these jagirdars as their props and dozens of villages were given into their ownership. Thus the real owners are the tillers who cultivated the lands. We have no animosity towards the jagirdars, but we do not believe in the system, which had condemned thousands of people to poverty and want. Their poverty evoked pity.

After all they are also human beings and why should they lead a life of humiliation? Why should the fruit of their labour be enjoyed by those, who have all along ruined them? These landlords were staunch supporters of. Now the question arises what about those lakhs of people whose lands were usurped by the vested interests. Justice demanded that the land be transferred to the real owners and the National Conference did it. In my opinion it will amount to an injustice if the landlords are compensated because they have already derived maximum profits from the lands. They have exploited the peasants to the full and have led a life of ease and indulgence. This needs to be mentioned that the

landlords have been fairly treated. Besides 182 kanals of agricultural land, other lands have also been left with them. The transfer of jagidars land to the peasants is a correct approach. Hence I support this part of the report. I oppose the recommendations which Wazir Ramsaran Dass had made to the effect that compensation be granted to the minors and the widows. As my friend Mr. Ghulam Mohd. Beg has said, are not the widows, the same persons who owned thousands of kanals of land? And now they, with an air of innocence want to secure compensation? In my opinion, instead of helping these widows and minors, the widows are the minors living on footpaths should be fed and the refugees who have lost their kith and kin should be looked after. With these words I support that part of the report, wherein it has been stated that no compensation should be granted to the expropriated landlords.

Hon'ble Sheikh Mohd. Abdullah: Sir, I think this report has been thoroughly discussed by the House and almost all the sections have spoken on it. Therefore, I consider it proper that the discussion be closed.

Mr. President (Hon'ble G.M.Sadiq): The question is whether the discussion on the report be closed or not.

Note: The Closure motion was put to the House and was negative.

Hon'ble Mr. M.A.Beg: Sir, may I say something.

Mr. President: (Hon'ble G.M.Sadiq): Yes you can.

***Hon'ble Mr.M.A.Beg:** Hon'ble president, I am pleased to find that almost all the Hon'ble members have supported the recommendations of the Committee i.e no compensation be granted against the expropriated lands. Some members have raised certain questions. On behalf of the Committee I would like to answer these. Some members have been critical. Their point is from where will the money come? Will it be realized from the tillers or from the Government treasury? It is evident from the words on page 26 (English edition) of the Committee's report that the tillers are poor oppressed and needy. So the question of realizing money for land compensation from them cannot arise. Besides our country's resources are limited and consequently we are not in a position to pay the landlords from the State Treasury. This will obviously be a

financial burden on the State and detrimental its interests. "The tillers to whom the excess land from which the big proprietors are expropriated is transferred in ownership right, are an indigent, impoverished and much exploited class by themselves. No question of recovering the price of the land from them does arise. As a State with a limited resources we are too poor to pay compensation from out of the State revenues. The Financial liability will be of a very serious nature and payment will itself prove incalculably mischievous."

Some members have objected to the effect that while submitting our report we have acted beyond our powers. While speaking during the previous session of the Assembly, I had remarked that the tillers will not for the present derive any immediate benefit from land reforms. They will, however, be benefited after nearly fifteen or twenty years I had said "They will rightly benefited by these reforms after fifteen or twenty years. If to-day we ask them to pay compensation to the landlords they are not in a position to do so, and if the Government is to compensate them it will be a burden on the Government treasury." Similarly it was said, "if such a burden is thrown on the tiller he will be ruined, and the demand from the Government Treasury will prove incalculably mischievous." At the time of winding up the debate, I also said that the Committee will also consider this point. The Committee also took notice of the fact, that the tillers being poor and oppressed could not make, compensation. Besides our country has limited resources and consequently it is not possible for us to make the payment from the State treasury. The financial burden will prove dangerous and the payment will have detrimental effects on the economy of the country. Besides there is no moral, social or economic justification for granting compensation to the landlords.

Further objection has been raised: and a reference has been made in this House: that according to the Indian Constitution no one will be deprived of his property unless he is compensated. The fundamental rights of the Indian Constitution referred to, do not apply to us are have abolished landlordism according to our own conditions. In this connection our stand is different from that of India. Here the former Rajas and Maharajas granted 75 lakh kanals of land to

the landlords without any compensation. This land was brought under cultivation by the sweat and toil of the tillers. Therefore, the principle we have established here is based on its own merits. One of the Hon'ble Members in his speech referred to the "levies and bribes" supposed to have been realized from the peasants when the lands were distributed. In this connection I would point out that it cannot become the subject. Besides the Committee has received no such complaint. The Committee has come to the conclusion that no person need be granted any compensation. Some of the Hon'ble Members of this House have mentioned the fact that since the recommendations for the grant of maintenance allowance to religious places formed separate part of the report, it could not be incorporated in it. In this connection I would like to state during that the investigation by the Committee this fact we brought to its notice, and we now submit it before you as a suggestion. This is a disputed subject and we have, therefore, put it as a suggestion before you and have dealt with it separately in the report. This was criticized here. The learned members have expressed complete agreement with the land Compensation Report during the consideration motion. But during the consideration motion it is not thought necessary that one must agree with the report in-toto. It cannot be that if a person files a suit in a court of law and the defendant argues that the agreement is time barred and therefore void, and if the Court dismisses the suit on this basis, it does not mean that the defendant had not taken the money from the plaintiff. If 49 out of 50 arguments of the report are against compensation we cannot say after we have taken a decision that the House had accepted all arguments of the Report. Therefore, I submit that the objections raised by some of the members are not relevant to the report. The criticism made in regard to the report is of different types.

Sir, I move that the motion I have submitted before the House in connection with the Land Committee's Report may be put to vote.

Note:- The question was put to the House and was unanimously adopted.

Mr. President (Hon'ble G.M.Sadiq): Now Hon'ble Mr. M.A.Beg will move the other resolution.

Hon'ble Mr. M.A.Beg: Sir, I rise to move that the House accepts the recommendations contained in the chapter 4 of the Land Compensation Committee appointed by the Constituent Assembly by its resolution dated 6th November, 1951, to examine and report upon the desirability or otherwise of payment of compensation as provided by Section 26 of the Big Landed Estates Abolition Act for land expropriated under the provision of the said Act and directs in accordance therewith that:-

1. No Compensation shall be paid with respect to land from which expropriation has taken place under the provision of the Big Landed Estates Abolition Act 2007 and (2) and Adhoc Committee consisting of the following members:

1. S. Kulbir Singh
2. Mr. Ghulam Mohi-ud-Din Khan
3. Hon'ble P. Sham Lal Saraf
4. Masha Nahar Singh
5. Mr. Mir Qasim
6. Hon'ble Mr. M.A.Beg

Be appointed to examine and make recommendation for the maintenance and up-keep of religious institutions within State whose continuance according to the recognized standard of public and social utility is necessary.

Hon'ble Pt. Sham Lal Saraf:- Sir, I second the resolution

Sardar Kulbir Singh: Sir, before the resolution is discussed, I rise on a point of order. The resolution for setting up the said committee was passed during the last Session of the Assembly on 6th of November 1951, and on the basis of this a Committee was appointed by the House. The Committee was asked to report whether any compensation should be granted for the land, which were taken away under the Big Landed Estates Abolition Act. It is evident from the Report of the Committee that it has after careful enquiry recommended that, "both on principle and in keeping with the policy, payment of compensation to the expropriators is not desirable," Sir, it is obvious that the Committee has expressed its unanimous opinion on the basis of the basic resolution. But, that

part of the Report which concerns the religious institutions is beyond its terms of reference. Therefore this part cannot be brought under discussion. Sir, We want your ruling whether or not the matter is beyond the terms of reference of the committee?

Mr. President (Hon'ble G.M.Sadiq):- I have received from Hon'ble Ghulam Mohi-ud-Din Hamdani notice of an amendment, similar to the point of order raised by Hon'ble S. Kulbir Singh. Since it is an important matter, both the views need to be heard. I therefore think it proper that at this stage, the matter be decided by an amendment rather than by my ruling.

Hon'ble Mr. G.L.Dogra:- Hon'ble President, and important issue cannot be confused with another.

Mr. President (Hon'ble G.M.Sadiq): - An amendment notice similar to the nature of this point of order, has been received.

Hon'ble G.L.Dogra:- sir, the point of order of Hon'ble S.Kulbir singh is this, that the matter is outside the terms of reference of the Committee and does not carry any weight. He seeks your honor's ruling on this point. Your honour has mixed the issue with the amendment. We seek your ruling.

Mr. President (Hon'ble G.M.Sadiq):- I do not want to usurp the rights of the Hon'ble Members by my ruling. The House will get an opportunity of studying both the aspects though the amendment. Had the amendment not been proposed it would have been necessary to give a ruling in respect of this point of order?

***Hon'ble S.M.Abdullah:-** sir, the House had empowered the Committee to make enquiries about a particular issue and therefore make a report before the House. Now the report is before us for consideration, if the Committee has, besides, the work which was assigned to it, brought in some irrelevant matters before the House, a point of order can be raised regarding this. Briefly speaking, the purpose of the point of order is to show that the matter is outside the terms of reference of the Committee and consequently the House cannot consider it. I will submit that you have been requested to give ruling as to whether the matter in question incorporated in the report is relevant or not. If you declare it to be

relevant, no one can object. But it is apprehended that if this state of affairs continues, the committees that are set up in future, will also entertain irrelevant matters. Hence at this stage your guidance is essential.

Mr. President (Hon G.M.Sadiq):- The point that has been raised is a very Important one. Before I express my opinion on this point, I think the House should be given an opportunity to express its views in favour or against this. After a full debate on this point, I will give my ruling.

Hon'ble Mr.Ghulam Mohi-ud-din Hamdani:- Sir, I want to speak on this point of order.

Hon'ble Assad Ullah Mir:- Sir, I rise on a point of order. Hon'ble Mr.Hamdani has already given notice of an amendment. Therefore, he has no right to speak at this stage.

Mr. President (Hon'ble G.M.Sadiq): Hon'ble Hamdani does not want to speak on the amendment at this stage but wants to express his views regarding the point of order, which is before the House. He is entitled to do so.

Hon'ble Ghulam Mohi-ud-din Hamdani:- Mr. President, the Leader of the House has pointed out that the committee was set up with the object of making enquiries whether or not compensation should be granted , and to submit its report to the House . After through examination the Committee has submitted its report to the House. So far as I understand the Committee was not empowered to make separate recommendations regarding religious institutions. The Committee was not empowered in this behalf. Sir, this being obvious everybody can understand it easily, that the Committee has exceeded its terms of reference.

Hon'ble M.A.Beg: Mr. President, with your kind permission I may speak a few words in English.

Hon'ble S.M.Abdullah:- Sir, the Hon'ble Member can speak fairly good Urdu. He should not be permitted to speak in English.

Mr.President (Hon'ble G.M.Sadiq):- I have not yet given any permission.

Hon'ble M.A.Beg: Mr. President, I have lost my first point for not getting the permission to speak in English. It is a fact that the Constituent Assembly passed the following resolution on 6th November 1951 "That a Committee be appointed

to examine the desirability or otherwise of the payment of compensation for lands expropriated under the Big Landed Estates Abolition Act.” The specific issue before the Committee was the “desirability of payment of compensation”. The resolution passed by the Assembly at that time did not contain any direction for the maintenance of the religious places, on the basis of which it would have been possible for the Committee to consider the question of religious places. I admit that these are two questions (laughter).

“He laughs the best who laughs last”.

Whether the landlords should be compensated or not, and should the action be taken separately regarding the religious places, are in reality two different questions. This issue was raised before the Committee because the religious institutions to which vast tracts of lands were attached and the religious institutions to which vast tracts of lands were attached and which could be maintained upon the income of those lands, could not be maintained after the abolition of big landed estates. It was on account of this that the Committee thought it proper to draw the attention of this Constituent Assembly towards this problem in the last part of the report. As far as the question of payment of compensation of the lands which were distributed amongst the peasants according to the Big Landed Estates Abolition Act is concerned, we have observed on page 26 that: “Apart from these considerations there is not moral, economic or social basis for compensation. We, therefore, recommend that both on principle and policy, the payment of compensation to the expropriated proprietors is not desirable. The payment of compensation would perpetuate the present inequitable distribution of wealth.”

The Committee is of the unanimous opinion, on this point. Since in its report the Committee had to consider all the issues which had any bearing with the abolition of landlordism. The Committee with a view to disposing of the issue drew the attention of the Assembly towards the religious institutions in the country, which have something to do with the betterment of the country. It is, therefore necessary that the Assembly appoints an adhoc Committee to consider all the issues and submits report for their upkeep and maintenance. If the

Constituent Assembly thinks it proper it may consider the report or any transfer it to the Legislative Assembly. As is obvious, this was a mere suggestion to dispose of the issue. As far as the resolution of 6th November 1951 is concerned, its scope was limited to the payment or non-payment of compensation to the landlords.

***Hon'ble Sheikh Mohammad Abdullah:** Sir, Hon'ble Mr. Beg has spoken in regard to the point of order raised by the Hon'ble Member which was to the effect that the Committee has exceeded its terms of reference and consequently any action beyond those terms should be ruled out. If your honour rules out this point of order, then naturally the second part thereof will also stand rules out, and if you hold that the Committee could also consider, besides compensation, other matters as well, then I shall discuss the subject matter the issue. At this stage only a legal point has to be determined in regard to which a ruling is sought under part 2 pages 27 English version. The demand for the appointment of an Adhoc Committee has been put forward in the House. This was not within the competence of the Committee. It is therefore, requested that it be declared out of order. Hon'ble Mr. Beg has drawn the attention of the House to the fact that during the enquiry by the Committee, they have come to know that there exists a large number of religious institutions having special influence over the society and it was in a view of this that they realized that most of these institutions come within the purview of this law. But the Committee is in complete agreement on this point, that, in case of either religious institutions or individuals no compensation should be paid. This was the only matter referred to the Committee. The question with regard to the maintenance of mosques, temples and Gurdawaras was not taken up. This is the function of those persons who go to such religious places I do not feel inclined to speak on this subject. What I want to say is that this is not the function of the Government and particularly of a State, which has a secular character. As is well known ours is a secular State, and consequently, it is for those persons to look after religious places who go there for purposes of worship So far as the question of the management of religious institutions is concerned, I would say that if the state had to take it up,

this matter would have been included in the terms of reference of the Committee.

And in that case it would have been possible for the Houses to discuss this matter. It has particularly been mentioned in the resolution passed by the Assembly during the last Session that; "Whereas it has been provided in Section 26 of the Big Landed Estates Abolition Act, 2007 that the question of compensation with respect to the land from which expropriation has taken place under the said Act shall be settled by the Constituent Assembly of the State.

The Assembly resolves: -

(a) That a Committee consisting of the mover as the Chairman and ten other members named below:-

1. Maulana Moh'd Syed
2. Pt. Janki Nath Kakroo
3. Mr. Mir Qasim
4. Mr. Ghulam Ahmad Mir
5. Wazir Ramsaran
6. Mr. Sagra Singh
7. Mr.Chela Singh
8. Masha Nahar Singh
9. Mr.Ghulam Rasool Kar
- 10. Mr. Krishen Dev Sethi**

Be appointed to examine the desirability or otherwise of the payment of compensation for lands expropriated under the provisions of the said Act.

- (b) That the Committee may consult the views of the various interests and sections of the public during the course of its deliberation.
- (c) That the Chairman may delegate his functions to any other man of the Committee in his absence.
- (d) That the Committee may co-opt any person as an expert to render such assistance in its work as may be required.
- (e) That the Committee shall submit its report to the President of the Assembly within three months of the date.

It is perfectly evident from the resolution that the Committee was constituted with a specific purpose. The Committee has categorically expressed its opinion that no compensation should be given to anyone, but at the same time has introduced a new issue, which has no bearing on the main resolution. So far as the non-payment of compensation is concerned it will apply to the landlords as well as to the religious institutions. There is no difference between the landowners and the religious institutions in this respect. The Committee could have recommended that so far as the landlords are concerned they should not be compensated. But so far as the religious institutions are concerned they should be compensated. In this case there would have been two clauses in the report, but the Committee has not adopted such a procedure. The Committee should not have brought forward the question of maintenance allowance of the religious institutions because it was beyond its scope. The question of maintenance allowance of the religious institutions could have been brought before the House by some Hon'ble Members in future, by means of bill. Sir, it is apprehended that if once permission is granted in this behalf any Committee appointed by the House in future will bring within its scope of work even such matters for consideration as may be beyond their terms of reference whereby a bad precedent will be established. In view of this we seek your guidance by a ruling.

Mr.Mir Qasim:- Sir, in support of the point of order, it has been said that the Committee has exceeded the powers delegated to it by the Assembly . In this connection, I beg to submit that the foremost function, which the Committee was charged, is mentioned in part (A) of the resolution.

“The Assembly resolves that a Committee be appointed to examine the desirability or otherwise of the payment of compensation for lands expropriated under the provisions of the said Act.”

The word “And” or “Or” do not appear after this. As far as this part of the resolution is concerned it is self-sufficient and part (B) of the resolution is also independent in itself. It runs as under: -

“That the Committee may consult the views of various interests and sections of the public during the course of its deliberations.”

If the Committee has not considered all the issues, which have been mentioned in the aforesaid clause, the members of the Committee could have never decided whether compensation was to be given or not. But under this clause they had to take into consideration public interests of the various sections and this they thought that this point was also to be considered by them. It is, in consequence of this that in the second part of the resolution recommendation has been made for the appointment of an adhoc Committee. Therefore, it is obvious that the Committee has not exceeded its powers. In clause (B) of Appendix ‘A’ it is mentioned. “That the Committee may consult the views of various interests and sections of the public during course of its deliberations.”

Keeping in view the “various interests” we have submitted the report.

Hon’ble S.M.Abdullah: Sir, we have not objected to this but....

Mr.President (Hon’ble G.M.Sadiq): You have already spoken. Now you cannot speak.

Hon’ble G.L.Dogra: Sir, the point before the House is very important and any decision that will be taken in regard to this will have much influence on the parliamentary growth of this House. It is said that the matter was not within the terms of reference of this Committee and your honour has been requested to give a ruling whether it is correct or incorrect. You are of the opinion that all the members should express their views first and thereafter your honour will give a ruling, whether the matter was within the terms of reference or not. The Hon’ble mover has said that the matter was not within the terms of reference but its inclusion therein was necessary. On reading clause “B” of Appendix “A” you will find that it could decide about the payment or non-payment of compensation after consulting all the interests. This is also an important matter if some one had approached the Committee and told them that his land has been taken away, his family status has been interfered with, his daughters has no chance or marriage in high families and that his family status must be maintained.

Hon'ble M.A.Beg:- I think, the Hon'ble Member does distinguish between worship of God and performance of marriage.

Hon'ble G.L.Dogra:- The principle does not allow that my distinction should be made. I do not interpret clause (b) as you do.

Hon'ble M.A.Beg:- Could Dogra Sahib think of nothing except marriage ceremony.

Mr. President (Hon'ble G.M.Sadiq):- Both of these are sanctimonious.

Hon'ble S.M.Abdullah: Hear, Hear.

Hon'ble G.L.Dogra: The interpretation given to clause (B) is not correct. We require your honour's ruling as to whether the matter was within the terms of reference or not. Your ruling will have a tremendous influence on the parliamentary growth. If it is accepted that the Committee can go even beyond its terms of reference the result will be that the committee will be set up in future will carry on for years, without reaching to any conclusion. Besides, we will have to bear many expenses. Now, we seek your ruling on this point.

Mr. President (Hon'ble G.M.Sadiq):- I think that the matter has been thoroughly discussed. As far as the terms of reference are concerned, they are clear. The Committee was appointed for a definite purpose i.e. whether compensation is to be given or not. After hearing various interests and the views of different Sections the Committee has recommended in clear terms. "We therefore recommend that both on principle and policy the payment of compensation to the expropriated proprietors is not desirable the payment of compensation would perpetuate the present inequitable distribution of wealth." It is obvious from this that the Committee has made definite recommendation. As far as the Adhoc Committee is concerned, the idea might have struck them at a later stage, because if you go through appendix (B) of the questionnaire, you will not find any such question there. Only the question of compensation exists. The questionnaire is confined to the payment or non-payment of compensation. I think that the recommendations other than those of compensation are beyond the terms of reference of the Committee, which means that the Committee has

exceeded the powers delegated to it under the resolution. I, therefore, hold that since under the resolution, the powers of the Committee were defined and the scope limited the commendation is beyond the power of the Committee. The Committee, has exceeded the scope of the resolution under which it was formed, Therefore, it will affect the present proceedings.

Hon'ble Mr. M.A.Beg: - **Sir, I want your honour's guidance whether under rule 49 (2) you will take up my resolution in two separate parts. It reads as follow: -**

“When a resolution involving several points has been discussed it shall be in the discretion of the Chairman to divide the resolution and to put each or any part separately to vote.”

Sir, will you take up the resolution under the above-cited rule or the amendment.

Mr. President (Hon'ble G.M.Sadiq): I think it is an amendment to the resolution which you have moved and if you accept it after it is passed, your difficulty will be removed.

Mr. G.M.Hamdani:- In the resolution put forward by Hon'ble M.A.Beg, I want to bring in the following amendment that, instead of

- (i) no compensation shall be paid with respect to land from which expropriation has taken place under the provisions of the Big Landed Estates Abolition Act,2007; and
- (ii) an adhoc Committee consisting of the following:
 - (1) Hon'ble Sardar Kulbir Singh,**
 - (2) Hon'ble Ghulam Mohi-ud-din Khan,**
 - (3) Hon'ble Pt.Sham Lal Saraf,**
 - (4) Hon'ble Mahasha Nahar Singh,**
 - (5) Hon'ble Mir Qasim,**
 - (6) Hon'ble M.A.Beg**

Be appointed to examine and make recommendation for the maintenance and up keep of religious institutions within the State whose continuance according to the recognized standards of public and social utility is necessary.”

The following words and figures be substituted, namely:

“to the effect that both on principle and policy the payment of compensation to the expropriated proprietors is not desirable and directs in accordance therewith that no compensation shall be paid with respect to land from which expropriation has taken place under the provisions of the Big Landed Estates Abolition Act,2007.”

Mr.Mubrik Shah: Sir, I second the amendment.

Hon’ble M.A.Beg:- Sir, in view of your ruling I accept this amendment.

Mr.President (Hon’ble G.M.Sadiq): Does any body want to speak on the motion itself.

Hon’ble Sheikh Mohammad Abdullah: Sir, I support the resolution which has been put before the House by Hon’ble M.A.Beg, and it runs as follows:-

“ This House accepts the recommendations contained in chapter 4 of the Report of the Land Compensation Committee appointed by the Constituent Assembly by its resolution dated 6th November, 1951 to examine and report upon the desirability or otherwise of the payment of compensation, as provided by section 26 of the Big Landed Estates Abolition Act, 2007, for land expropriated under the provisions of the said Act to the effect that both on principle and policy the payment of compensation to the expropriated proprietors is not desirable and directs in accordance therewith that no compensation shall be paid with respect to land from which expropriation has taken place under the provisions of the Big Landed Estates Abolition Act,2007.”

Sir, the House has discussed the issue thoroughly. As far as I have tried to follow the speeches I think about forty members have expressed their views. So far as the work of the Committee is concerned, they have examined the matter in all its respects. The result of its labour is before the House. The Committee is concerned; they have examined the matter in all it’s the landlords and all other classes, who could be affected by this law. I do not want to go into details, and would therefore say only a few words. Some of our friends on behalf of landlords advocate as to how expropriated landlords will maintain their families in future and how will they spend their days. As far as the interests of landlords

are concerned these are contained in a booklet, which we have thoroughly studied. They have raised some questions. We think that their objections are no so weighty as to change our opinion. They have raised legal and moral objections and have also appealed to our sense of justice. In short they have left no stone unturned, to make us change our opinion but unfortunately the booklet has created no impression on us, and consequently the arguments contained therein could not change our opinion. It is not because; we have any animosity or hatred towards them. We have repeatedly declared that to consider Hindus, Sikhs, Muslims and Buddhists of our country as our part and parcel. We wish that all of them should prosper. The law was not framed with the object to destroy a particular class or we were unconcerned with any one's honour and comfort. The question therefore arises, what were the reasons, which had created deep impression on us, and had compelled us to enforce the law. This is a painful experience of our whole life. I will only cite two examples. Twenty years ago we raised our voice for the freedom of our country. I got an opportunity of visiting every nook and corner of our country and had a chance of seeing the conditions of the common man. I saw hundreds of people who had been victims of troubles and tribulation. I was thinking how the sufferings of the people would come to an end; I mentioned this fact many a time to my friends. In this connection once I went to Kathua, and there a number of friends met me. They told me about the plight of the tenants. The tenants who not only till the lands, put labour into it, but also produce grain for all of us. They had no right to erect a hut on the lands they cultivated to enable them to get shelter during rains or hot weather. It was because the landlords did not permit them to do so. Besides, the tenants were not allowed to grow vegetables for themselves even on a small piece of land. They further told me that if a tenant needed fifteen or twenty rupees, only that tenant would get the money, who would "mortgage" his mother, sister or daughter with the landlord, because the landlord without this would not give the paltry sum asked for.

Once I was going to Rajouri and the way I met an old Hindu, who was accompanied by his old wife and five children. They were all weeping and

stopped me. I asked the old man, what the matter was. He said that he was tilling the land of a particular man at a certain place and once when he was in need of money, approached a moneylender. The moneylender gave him a few rupees. This paltry sum got multiplied into a huge sum owing to compound interest. The moneylender sued him in a court of law for non-payment of the debt and secured a decree for attachment from the court. He brought the police and they turned him and his family out from their ancestral home. He asked me what he would do? This is the condition of that area. Similarly I will give you an example of Srinagar.

In Srinagar there was a rich Mohammedan, a contractor who had performed Haj also and who had about six lakhs of rupees in case. One day I was sitting in my house, and a lame person came to see me. He was accompanied by his wife and two daughters. His wife and daughter were almost naked; they began to weep before me. At first I took him for beggar and therefore, I went into my room so that he might not pester me. But when he told me that he had no favour to ask from me but had only to relate his story. I gave him a patient hearing. He told me "I am an employee of a particular contractor who is your friend and admirer. Once he gave me hundred rupee in advance, which I could not repay. Now for the last six months I am a rearing silkworm. One day I climbed a mulberry tree to fetch the leaves and all of a sudden had a fall from the tree. I broke my leg and was in the hospital for about six months. Now I am not earning hand. These are my two daughters and the woman is my wife. The contractor has sued me for this hundred rupees. I have eight kanals of land, which I have given to a tenant for cultivation on the understanding that the produce will be shared equally by us. Now the contractor has secured attachment for the produce. And my children are dying of hunger. I request you to tell him to take pity on me." I sent for contractor and told him "you have got about six lakhs of rupees and have no son. Besides, you are of a quite ripe age. It does not matter if you remit off the debt of the old man, because he has served you all life." But he replies, that if he accepted my suggestion, it will become difficult for him to run his business and he asked the debtor to transfer his four kanals of land to him. The debtor said that he was unfit

for any work and maintained his family on this small piece of land. However, he did not agree with my suggestion. This is how landlords have been dealing. It is an irony indeed that the people who, they must see for themselves and should realize that karmyog is a universal law. It is a well-known proverb that as you sow, so shall you reap.

In Rajouri, the landlord drove away the peasant. In Kathua, he played with the chastity of woman. He forgot the Almighty God and lost sense of truth and justice. Now these very landlords accuse us of injustice and plunder. We are showing them the path of justice. The steps we are taking now ought to have been taken long before. They must also feel satisfied with these measures, because in this way we are showing them the path of righteousness.

In their memorandum they have stated that Mr. Abdullah and his party have taken the decision of non-payment of compensation, because of the power they yield. We have placed the question of compensation before the Constituent Assembly of the state, but they object that the members of the Assembly belong to one party only. How are we to be blamed for it? At first these people wanted to fight the election, but later on they said that they did not consider it expedient to contest the elections. On foreseeing their defeat they gave up the idea of contesting the general election. I may tell them that it was ten years back that the National Conference took the decision of doing away with the landlordism. We want to put an end to this injustice. When the National Conference emerged as a party in the country, it did not deceive anybody. After ten years when this party assumed power it asked the people to send National Conference candidates to the Assembly, so that this injustice be done away with. At this time other people could also come in the forefront and tell to the electorates "return us to the Assembly and we shall not permit the land being taken away from the landlords. The National Conference party comprises dacoits who are out to snatch away land without compensation. We will do justice," But they must have felt in the heart of their hearts that the country was not prepared to support them and that they could not secure even a single vote obviously this path is a thorny one and hence it should not be treaded. However, when the people returned our

candidates enblock to this House, we did not out of our own sweet will decided to abolish landlordism without compensation, but on the country Committee was set up and it was asked to conduct a State wide tour and examine the fact and thereafter submit a report before the House. So that a momentous decision could be taken by the House. Now, the report is before us. In this report an efforts has been made to meet all the arguments of the landlords in detail. It is an effort has been made to meet all the arguments of the landlords in detail. It is not our fault if there is only one party in the assembly. How are we to be blamed for that? The people of our country consider this party as the most popular party. (Laud applause). The other argument they have advanced is that the National Conference had declared beforehand that it would abolish landlordism and consequently there appeared to be no necessity to have a discussion on the subject, but you have put forth your arguments which unfortunately proved weak. This was followed with the objection that the Act is defective one. In this connection the independent tribunal of Justice of the State-the High Court has declared the Act to be valid. Their other arguments have been answered by the Committee. They are nourishing one more illusion, when they say that the supreme sovereignty does not vest with this House but with the Indian Parliament. In other words it means that people of this land have no sovereign rights. While removing their mis-understanding, I want to make it clear that the sovereign rights vest in none other than this Assembly, which consists of the elected representatives of the people of this land (Loud applause). This Assembly can decide all the issues including the issue of the future of the Royal dynasty which has ruled our land for the last one hundred years. Let me again repeat that this Assembly is fully competent to take decisions about these issue. No power on earth can challenge its decisions. (Applause).

These people must see how the wind blows. It is said that National Conference is out to confiscate the lands. Further they say that the Government wants to rob peter and pay to paul. But the facts tell a different story. We have neither robbed peter nor paid to paul. On the contrary we have given every one his right. The mover has thrown sufficient light on the subject of how the landlords

acquired lands. Sir, we should have no grievance against these big landlords, since they have been brought up under mediaevalistic regime i.e feudalistic systems of Mughals and Sikhs. Under these feudalistic systems rich became richer day by day and the poor were ground under the cold grip of poverty. This system has, however, been changed in modern times. Those who do not grasp the changed condition of the times will be blown sky. (Cheers).

Our landlords should know how the wind blows. The common man of Asia is land hungry. Both India and Pakistan feel disturbed because of this problem. The solution of the land problems is one of the crucial problems of our times if any country creates hurdles in its solution this will inevitably create difficulties for it. Our path is that of peaceful evolution. If you give up such a path the result will be that you will be thrown over board. You argue that the example of India is before us, and that they have decided to compensate the landlords. Although India had adequate resources to pay compensation yet it has not been able to do so, so far. You must be remembering that twenty years back they had said that in U.P the lands should be transferred to the tenants but this has not been done upto now. The idea is not our own. On the contrary it was Gandhi Ji and the Indian National Congress who took a lead in this matter but inspite of this the Congress failed to implement it. They narrowed down themselves to a pinhole and attempted the impossible. All the leaders of India are facing difficulties but it is their business to remove the hurdles. Today at 1 p.m. while I was listening to Pt. Nehru's speech which he delivered in the chamber of Commerce, he said that any activity which is harmful to the country should be crushed root and branch. Feudalism had condemned the people of this land to a life of degradation. The condition of our people had become similar to that of Harjans of U.P. After all who is the master of a country? It is the people of the country. Here the people were oppressed and their lands were taken away from them by hook and crook. You must not complain. If these very oppressed people receive back their lands. My friend from Kargil has stated as to how the lands were usurped. I will cite one more example. Pulwama is a big area . Once I went to this place. There was a big Zaildar who owned thousands of kanals of land. There the system of adoption

was in vague and by adopting this method he acquired thousands of kanals of land. The system was like this. There was an old man and his wife, they were on the verge of death. The Zaildar would go to these people and asked them to adopt him as their son.. They were illiterate and knew nothing about the world's ways. The Zaildar would feed them, and this secures their thumb impression on a stamped paper. When the old man was dead he would ask the Patwari to enter the land against his name, since the old men had signed the document in his life time. At the age of seventy he wished to become a son. (Laughter).

Hon'ble M.A.Beg:- According to this ration he must have many fathers. (Laughter).

Hon'ble Sheikh Mohammad Abdullah:- In revenue papers he must have many but in reality he had only one. If we transfer the land to those, whose lands were taken away it is no way an injustice. The irony of the whole problem is that they advance moral arguments in defence of their case. They further argue that if you resort such methods, then the new Government which will replace you will give back the lands to the landlords. This is not our business to think as to who shall replace us. So long as we live we have to see what path we are following. Those who will step into our shoes shall be responsible for their own deeds. It is the duty of those who have secured their right to safeguard their interests. We have established the principle that the land belongs to the tiller. Wealth should not get accumulated with one person, and no one should enjoy the fruits of the labour of others. If a peasant works on the land then naturally the produce belongs to him. We have alluded to Chenani and Uri and how lands were taken away there it was the feudal system, which took away land from the peasants. Now the reverse process has started and this reverse process is the real justice. As far as this House is concerned, it has compensated them. If we have hatred against them we would not have left 182 kanals of land with them. When the Members of the Committee went to Kathua, there the landlords told them that they were not used to any manual labour because they owned large tracts of lands from which they may derived income and thereby maintained themselves and their families. They further said that they cannot maintain themselves, now since their expenses are

many. They had to give education to their children and had no income. The members of the Committee told them that the tenants had also children. Their reply was that the peasant folk are not used to education. The Members of the Committee told them that they will have to change with the changing time and they will have to make it possible both for the rich and the poor to develop good habits. Besides, the poor have same desires as the rich have. The National Conference had done away with the exploitation. The poor was being exploited and that it was not in his lot to know what comfort meant. Therefore this cannot be allowed to continue that the poor should remain oppressed for all times and the landlord should lead a life profligacy. Their arguments cannot satisfy any, truth loving person. So far as the question of rehabilitation is concerned we have given them the choice of selecting 182 kanals of lands out of their thousands of kanals, Besides, the orchards which they laid out and which have not been touched they have been granted many more concessions to enable them to maintain themselves. The memorandum which has been published by the landlords Association contains strange and fantastic arguments. They say nowhere in the world excepting Russia have these steps taken. Since our State has acceded to India which is a democratic State we must follow the Indian methods. They accuse us of adopting the Russian way. The words of their arguments are:-

“The example of Russia may be quoted to justify non-payment of compensation. But it has to be remembered that the world is at present divided into two main ideological blocks communistic and non-communistic system. The foreign policy of Kashmir is in the hands of India has said that it does not want to join this or that block. To say therefore, that Jammu and Kashmir State would adopt the Russian system will in the long run amount to side in with the communistic ideology which will reflect on its foreign policy and if the State does so it is ultra vires of its powers as its foreign policy is in the hands of India and not of the State.”

We have taken into consideration this absurd argument also whatever we do- we do it with complete faith in God. This cannot happen that we will give up

the path we have chosen because somebody is abusing or frightening us. As far as other arguments of this Association are concerned they have been incorporated in the report. I do not want to go into the details with regard to it. One of the Hon'ble members of this House while speaking had remarked that there is no one to represent the landlords in this House. For his information I would like to explain that all the sections of the society are represented in this House. The landlords are being represented by Hon'ble G.M.Mir, Hon'ble Ramsaran Dass and Hon'ble Mubarik Shah. There are about a dozen of them who are themselves big landlords. This House has much profited by their counsel. So far the question of maintenance allowance is concerned the Committee has decided once for all that in no case any person or institution deserve compensation. The Government had also taken into consideration the fact that if anyone really needs help the Government will not Grudge it. But it will have to be seen whether the fellow is really hard pressed. The Government has decided to help such people. In this connection the Government has till now helped many a women and widows. The widow of Raja Hukam singh had approached the Government that maintenance allowance may be granted to her, as she had no one to maintain her. After making an enquiry the Government was satisfied that the representation was correct. Therefore a sum of Rs. 1200 was given to her as a subsidy. Similarly the Rani of Stock also approached the Government for the maintenance allowance. We have made enquiries in her case.

Mr. President (Hon'ble G.M.Sadiq):- Now the time is over, the business of the House will be resumed on Monday the 31st of March at 11 of the Clock.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY JAMMU SESSION 1952/2008

Tuesday, the 31st March, 1952/19 Chet,2008

The Constituent Assembly met in the Grey Hall, Jammu at eleven of the clock.

Mr. President (The Hon'ble Mr. Ghulam Mohd. Sadiq) in the Chair;

NOTE: The star mark indicates that the speech was delivered in Urdu and the English translation thereof has been incorporated in these debates.

Hon'ble President:- Hon'ble Sheikh Mohd. Abdullah.

Hon'ble Sheikh Mohd. Abdullah:- Sir, I was submitting the other day that the strongest argument, advanced in support of providing maintenance to those expropriated landlords, whose land has been distributed among the tillers, is that there might be many landlords who have purchased the land but derived no benefit there from. In case they are to be divested of their land, what arrangement has the Government made for their maintenance? In this behalf I would like to submit that as regards the Big Landed Estates Abolition Act, full consideration has been given to this point. We have left sufficient land with those expropriate landlords, whose land has been distributed among the cultivators. They can very well support their family with it. While a family retains 22 or 23 acres of land, can any one still say, that it (family) cannot maintain itself. As I understand, this claim is not tenable. We have not stopped here, but have granted them yet another right of selecting 22 or 23 acres out of the whole lot of thousands of kanals. Surely this was one of the unique right through which a landlord could choose out of his holding, extending to thousands of kanals, the best piece of land, yielding maximum produce and having the best site. Therefore the argument that this land does not yield as much produce as a sufficient for his maintenance, would not hold water. This is the best piece of land chosen by him out of the whole lot of thousands of kanals. If I go a step further, I would be justified in saying that most of the landowners have misappropriated this concession. We have received a complaint as to how the

Zamindars misappropriated this concession and made the thousand of rupees. It is alleged that the zamindars approached a cultivator whom they told that they were prepared not to choose the land under his cultivation but select a different piece, provided they were paid for. Thus they made a good amount of money notwithstanding all this, the government did not denude them of this privilege. Besides, the Big landlords had since long dispossessed the tenants of the land which they later converted into orchards. It is correct that the landlords had to invest money in orchards, but the greater portion of this investment was the fruit of the sweat and toil of these tenants. They have reaped a good profit from the sale proceeds of the fruits. They filled their coffers with lacs of rupees. By exploiting the labour of these cultivators they made these orchards. The Government did not touch these orchards, but left them in their proprietorship. This too is a source of their income. The government have exhibited a liberal attitude towards them and have been highly considerate towards the maintenance of their families. Notwithstanding all this, it is wrong to appeal to the feelings of the people by making capital out of the so-called helpless plight of the landowners. The Government have already considered all the issues involved. I never intend to support the land –owners; nor do I like burdening the cultivator with an unbearable load. The arguments advanced by the land-owners have been answered by the Hon'ble Members of the House. The Chairman of the Land Compensation committee too, has in detail answered this criticism. I do not want to reiterate it. We have to see the reasons that spurred us on to take such a step. The landowners argue that they are the owners of the land at present and cannot be thrown out unless compensated. This argument falls through, because to cure a disease we have to go to its very source. No doctor or a physician can successfully cure a disease unless he diagnoses its root cause. In view of these facts the Committee has put down in its report that the actual owner of the land should be the cultivator himself. The big landowners themselves have cited the histories of Kalhana, Lallitaditya and the Mughal Kings to show how the Zamindars came into possession of land. Through the medium of a booklet, which they distributed throughout India and Kashmir, they gave wide

publicity to their views. Therein they admit the appalling condition of peasantry under feudal system. The Government officials took these peasants as their servants. They thought them no better than mules or beasts of burden. The Rulers thought that they had descended from God and these people were created only to serve them. While the Muslim Kings self-styled themselves as Zul-Ullah of the shadow of God; the Hindu Kings regarded themselves as Suraj Bansi or Chander Bansi; claiming their descent from Sun-God, they thought the rest of the people were created to serve them and provide them with the means of luxury and profligacy. They maintained their power at the point of bayonet. A king always allied himself with certain groups who would assist him in inflicting untold misery upon the people. Being himself the source of this disorderly state of affairs the members of these groups acting as Government officials at various places, committed pillage and loot. They waxed winch and fat by snatching the hard earned income of cultivator a part of which they also shared with the King. They lived by sucking the blood of the poor cultivator. Feudal system with all its ugliest features tightened its cold grip on our State. Those who want to study this fact critically should not seek them in the present history or the history of 29 years earlier, but they should scan the pages of the history of hundred years back or the history written by Kalhana. The condition of the people will become apparent to them. Time rolled on and at last the prayers of the poor cultivators proved efficacious. They took the initiative, which flowered into a struggle. I think, the Zamindars won't deny that in reality sovereignty vests in the people of the State whether rich or poor, whether any of them is sweeper or a Prime Minister. A Prime Minister enjoys no more rights than a sweeper. When it is admitted that sovereignty resides in the people of this State, numbering forty lacs, how can it vest in a single individual. This furnished us with the basis for our political struggle. In reality the sovereignty belongs to the whole population of this country comprising forty lacs individuals including men and women, young and old and they alone can make or mar the destiny of this country. None, not even the Zamindars can deny this fact. We have to realize that our country's economy is fundamentally agricultural, providing livelihood for thirty-five lac individuals. It

must in reality be taken as the very root of a tree. These people form the corner stone of the edifice of our State and the entire population virtually depends on them. This thing stands irrefutable. Where from does the Government draw its power? It draws it from the people who inhabit this land. The present Government derives its authority from 40 lakh individuals, but out of whom 35 lacs live on land. But for the deep thought the present Government gave to the weal and welfare of these 35 lacs, its success was foredoomed (cheers). Had we not like real doctors provided an antidote to the poison of disease we should have shattered the very confidence reposed in us; and surely our failure was a foregone conclusion. Had we not done so, no remedy could have been devised to relieve these 35 lacs of the ills and miseries through which they pass, Zamindars too, allude to the distress they were in. They cite Kalhana and various other histories to show that the land was wrested from the cultivators, who formed the back-bone of the State and was given to some individuals. The people of Kashmir know that to cow down and threaten a child angry with his father or brother, the proverb "SOOZNAK GILGIT BIGAREH" is flung at him. It means "May God put you beggar (forced labour) to Gilgit. What this scourge the beggar of Gilgit was, it is not understandable to the youth of today.

The poor cultivators were victimized by dragging them to Gilgit on beggar. To invoke curse on somebody it is said "God may put you on beggar to Gilgit." At the time the Government had to exercise its authority in the remote and far-flung areas through force. Roads were needed for conveyance and carriage. All such work was exacted in the form of beggar from these oppressed people. The big Zamindars kept in their villages one or two men per family for beggar. This miserable lot was driven like sheep and had to scale the heights of Zojila and Burzil passes. The criterion set for beggar was that it had to be exacted from none else except the poor cultivator for the fault of tilling the land. Whenever a Government officer called at any house to demand beggar, it was a signal for loud wailing and lamentation. Mothers and children all wept bitterly because the safe return of one, dragged to beggar was a dead impossibility with them.

They had to suffer this calamity only because they were the poor tillers of the soil. Besides, all this they had to provide such an officer with cocks and hens, and other requisites so much so that they had to gratify his beastly sensuality. The authorities thought that they had descended from God and the rest of the people were only meant to provide them with pleasure and comfort. Therefore, they thought themselves right both in word and deed. The poor cultivators realized that they had to groan under this trouble for tilling a few kanals of land. To relieve themselves they decided to give up the task of cultivation and lacs of acres of land remained uncultivated. It is, therefore, that you see thousands of Kashmiries everywhere on the Globe. To throw off this yoke of suffering, they were forced to leave their mother- land for good. This was the condition of Kashmir, while that of Jammu is best known to my friends hailing from Jammu. Let my brothers hailing from Jammu, whether they are Muslims or Hindus, state on oath, the condition of our sisters and brothers of the 28 villages of Chenani. As against it what was the condition of the Raja? How the poor passed their days of suffering? None regarded his sons and daughters safe, under his rule.

The Zamindars of that place forced these people to work on his land and to look after his cattle. Besides he made these oppressed people work in his factory, if he and one. They had to satisfy his carnal desires and the children be gotten were disowned afterwards just conceive this Zamindars keeping ten wives at a time. If these Zamindars are endowed with compassion and fellow feelings. I would request them in the name of God to visit that place. Let them not ask from Sheikh Abdullah, but ask the poor cultivators of that place, their mothers and sisters as to what befell them not in the time of kalhana but in the present time. They will come across thousands of such cases, which will corroborate this grim story of misfortune. I think that the Government would have failed morally, if they had not devised the correct remedy for this calamity. With this object in view we examined all the methods through which the land came into the possession of the big landlords. We also examined the amount of profit derived by them. Sufficient light has already been thrown on this point. On principle it is necessary

that the fruits of labour should go to the labourer and none else should bring misfortune to him by exploiting his labour.

Justice demands that none should unlawfully exercise his authority over the other. The family of a cultivator works throughout the year on land, defend it against the wild beards and suffers the sweltering heat of the sun. The Zamindar knows nothing about all this. But when the crops are ready, the agent of the Zamindar presents himself and say that the land belongs to the Zamindar and none should dare to touch the crops.

Sir, most of the members must have seen it with their own eyes, just as I have had the occasion to see it over and again, that while the family of the cultivator suffers starvation and nakedness, he (cultivator) having no permission from the Zamindar, cannot dare to pick two or three seers of rice to feed his hungry children. He is denied even a maize-cob. He cannot pluck even a pod for his home. If at any time, the son of the cultivator who had himself worked on the land happened to pluck a maize cob, the cultivator or his agent would beat him severely. Such was the State of affairs our country had to face. It was, therefore, that we decided that the land should go to the actual tiller. Had we divested the landlord of all the land, even then we would have been justified. As we did not think it proper. We did not do so. We tried indeed, to put a stop to this chronic suffering that had come down to us from thousands of years, but never wished to bring about the ruin of the Zamindars, even if their number was so small we did not seek vengeance from the landlord. We know that he was a vicious circle. It called for such a remedy as would save both the limbs (arms) of our body politic. After all, the landlord like the cultivator is a part and parcel of our State. He possesses the same rights for the protection of his honour, respect and life as does the cultivator. Therefore we granted him the right of selecting and keeping to himself the best portion of land extending to 182 kanals from out of his holding besides, we left orchards and fuel reserves with him. How can I help, if anyone still grows that he has been given nothing and that it is not sufficient for his maintenance. What he says does not carry much weight with the people. We have to see towards the standard of living of forty lac human beings. If the

standard of living of the majority were so high that they allowed in gold and silver, the complaint of landlords would have been correct. But their standard is so poor that do not retain as much as four or five kanals of land. As against it, the landlords were allowed to retain 182 kanals. 182 kanals have been fixed as the maximum holding in our State. While the majority of the cultivators has no more than two kanals of land, the landlords ought to have felt obliged. Had the cultivators grumbled, they would have been justified. If my brother Zamindars still persist in complaining, they fail to do justice in understanding us. Yesterday or the day before yesterday one Hon'ble Member while speaking in the House remarked that the Zamindars spared nothing in placing impediments in the way of enforcing these reforms. Some accused of having gone the way of Russia. They said that in adopting these methods we were treading the path of Russia. This was done not only by some brother Zamindars but our enemies in the political field also tried to propagate it with the intention of dragging us in the tug of war in the world politics, going on at present between Anglo-American Block and Russia. With their (Anglo-American) pressure they wanted to oust us. If they failed here, they at least wanted to cow us down. As I have submitted yesterday, they tried to drag Russia in their arguments. As for us, we announced it categorically that we follow no particular ideology; we stick to one principle the principle of the National Conference. The National Conference has its own social economic and political Programme, embodying the right of women and a citizenship and the future political order. Eight or ten years before the National Conference presented this Programme to the people; this Programme was fully thrashed out so much so that the opinion of each single individual was sought. We invite the opinions of our friends and various parties in India. After receiving these opinions the Highest Executive of the National Conference passed this Programme. We adopted it ten years earlier and feel ourselves bound by it. A follower of the National Conference knows no other creed except his own; he is neither a Socialist not a Capitalist not does he consider any "ism" bad in itself. Every "ism" has dark as well as bright side. I think that no one in the world except God is in allible. All the "ism" whether it be Socialism, Communism,

Capitalism or any other philosophy try to evolve a solution for making life pleasant and better. We have to sit good and bad from all these philosophies. The National Conference has tried to understand every such solution presented by different philosophies. We have delved deep in every solution and have picked up good things. If we have adopted certain principles on merits from Communism or some other “ism” that does not mean that we have wedded ourselves to that particular philosophy and are bound by it. Even the big landlords admit that we are not the slaves of communism. They say that there are certain defects in communism but my opinion is that all the “ism” retain good as well as bad things. But we have to single our good things alone and have to adopt and enforce them in our own country.

This thrills me with joy that even the landlords admit it. While on the one hand they try to intimidate us. On other they have set down in their memorandum that under Communism land wrested away from the individuals and the State emerges as the proprietor. I would submit for their information that such is not the case here. Here we have handed over the land to poor tiller. Following are the words embodied in the Memorandum:-

Yes, it may be that the Government wants to nationalize the land and thus instead of one individual the community at large is to become the owner under a communistic economic plan. Perhaps that might have given the semi-balance of a justification to such a move. But this is not the case in the State. The State has not nationalized the land. It has not taken the land for the State or Community. It has only taken it away from “a” and given it to “b”.

It is correct that we have given land to the actual and rightful owner and snatched it away from one who had usurped it.

I was submitting that we do not in bondage to any particular philosophy. I would give a tip to those who dub us communists, vilify and intimidate us that communism cannot be opposed by slinging abuses. That lone is a commendable philosophy, which may usher in peace and contentment and improve the condition of the people. Socialism claims that its philosophy alone can bring about betterment in the condition of the people. Communism promises that its

philosophy alone can bring in prosperity for man and similarly capitalism dangles the promise of better future condition. We hold that the fruit of the labour of poor workers should be left with them and none should grab their earnings. In that case alone they can lead a pleasant life. I would like to ask you as to how would the poor people be contented if a few individuals are allowed to rob lacs of the earnings.

You know that Asia of which Kashmir forms a part, is predominantly an agriculturist country. Asia is not enriched with as many factories as in the case with other countries i.e. Europe. Here the life of thousands and Crores of people depends on land. Therefore we are bound by a very important duty to produce a correct solution of land. This question does not vex Kashmir alone but confronts India too. To banish discontentment of the people every country in Asia awaits correct solution of this question. There is no other solution except that the tiller should receive his due and you cannot pacify the discontented people unless land is handed over to the rightful owner. You brand us as socialists or communists but you cannot get us hanged by the application of these misnomers. We are not to be deterred by all this. It has been the pride of the National Conference that it has never succumbed to intimidation. We were given various names but we were never frightened. We have read the past history and have arrived at this conclusion. We have “applied” the proper remedy. We have stuck to it like a rock, it was, therefore, that 35 lac people reposed confidence in us. We did what we thought best and correct and we are confident of its correctness. No power on earth can shake us from the stand we have taken. (Cheers).

We should no fear if some people label us with different names. Our principle is that any step we take will be based on justice and will be for the good of the people.(cheers).This is our duty as human beings and no power can remove us from this position . If you prove yourself competent to discharge the responsibility you have undertaken, no one, can through you out. Do not leave the correct path out of some bodies fear or for placating someone. Hold fast to your principle. On our own part we are straining every nerve, and shall continue

to do so in future, to ameliorate the condition of the poor cultivators of our land. Zamindars to admit that our trials and tribulations have brought about the great change. The reins of Government fell in the hands of people. If we saved one in misfortune, we do not intend to push another into it. We take the Zamindars as our flesh and blood. We shall hurl no misfortune on him. He too is a part of our society and we shall never suffer his downfall. We have to maintain a general standard of living for our people. We have not shut our eyes to men in distress; we have granted maintenance allowance in certain cases. These people (to whom maintenance has been granted) too are the members of our society; they are our flesh and blood. It is the duty of the Government to come to the help of anyone having nothing for his maintenance. We did not shirk our duty in this matter. Yesterday or the day before I submitted certain names before the House in whose favour Government had sanctioned some allowances. I wish good of everybody. I cannot eat while forty lac of people starve. Our duty is to see that none out of forty lac of people starve. Our duty is to see that none out of forty lacs goes with food. Every one should get his daily food. But we have to cut our coat according to cloth. We are the trustees of the Government treasury. We can provide relief only to the extent to which our funds allow. We have received some cases of the female servants of the dynasty that rules over this country. These female servants were in receipt of some amount as their monthly salary. On his accession to the throne Maharaja Hari Singh, notwithstanding the fact that he got 36 lac rupees, gave them the sack. Through other means, the Maharaja managed to get huge amount. He used to draw fifty lac rupees as Privy Purse from the State. He could conveniently provide some amount by way of maintenance to these ten or twelve female servants. But he did not care a fig for them. It means that these poor ladies served them in their youth but were kicked out in their old age and handed over to the State. When we took over the charge of the Government, these ladies submitted a petition stating therein that in their youth they served in the palace and now in old age they were neither provided with any allowance whatsoever nor did any arrangement exist for their maintenance. In the beginning we hesitated. Was not the Maharaja who was

getting rupees fifty lacs and squandering lacs of rupees in various pleasures and profligacy's, in a position to provide rupees fifteen per bend per month to these ladies? Why should we burden the State with this additional expenditure? We asked them to demand this allowance from their old master as he was getting sufficient amounts of money from us depositing the same in the banks and squandering good amounts of money in racecourse. But these ladies persisted in presenting their applications before us. They said that they were correct in their demand and begged that they were helpless and were no in a position to search the Maharaja out. They further added that they were of us and we could not tolerate their distress and starvation. At last the Cabinet admitted the soundness of what they said and we were forced to sanction maintenance allowance in their favour. Without considering whether they were landowners or not we granted them as much relief as was possible. We did it, not because it was their right but because we were morally duty-bound to do it. Landowners demand compensation as a matter of right. We investigated the matter to whom the land belongs and who has the right over it. After considering them the matter we arrived at the conclusion that the actual owner of the land is the cultivator. But still we left 182 kanals with our brother Zamindars. Besides, the excess land was distributed among these cultivators whose for-fathers had cultivated it. I firmly believe that the whole world will be forced to accept it as the only correct solution. It is absolutely wrong to conceive of an arrangement, which lays down that in the first instance millions of rupees should be raised and paid to the Zamindars and thereafter the distribution of land (thus purchased) should be made among the cultivators. By taking up such a course, neither the money will come in for compensating the zamindars nor will the cultivator get the land. Any country desiring peace and contentment of its subject must take drastic measures to ameliorate the condition of the people. We cannot suffer ruination of thousands of human lives by involving ourselves in the intricacies of law. This problem of land has taxed the best brains of our grand and glorious party for the last 35 years. It could not be tackled upto now. The problem of getting such a prodigious amount for compensation stares India in the face. In Telingana,

situated in Hyderabad State, thousands of people were killed; who killed them and how they were killed does not concern us. But it is a fact that Telingana developed into an exploded magazine. The fundamental problem involved was that certain individuals had grabbed land while lacs of people were starving. When the government failed to root this disease out, the people took this task in their own hands. Hence the clash which culminated in the death and destruction of thousands of people. Peace does not hold its sway there, even at present. Land problem has assumed complicated form. This slogan "Land to Tillers" is not confined to Russia alone. Curtailment

General Mac-Arthur, who was in possession of Japan, is extolled as a great man. While we left about 22 acres of land with the zamindars, he did not allow them to retain more than 2 acres. Can he, therefore, be accused of being a Communist. Dean Acheson, the American Secretary of State, announced in a Big Power Conference, held in America, that the world will have no peace, unless a correct solution of land is found out. There is no other correct solution than that the land should belong to the tiller, who works in it with the sweat of his brow (cheers). This problem is not confined to Russia or China alone, but confronts the whole world. Unless a correct solution of land is evolved, there will be no peace. Whatever we have done is in close conformity with law. I hope that our brother-Zamindars too realize the hardships through which the people of Jammu and Kashmir had to pass. We realize that any step we take should be fully considered so that we may not have to repent in the long run. That the Government, that failed to feel the pulse of their people and do away with their hardships were doomed is known to you. Taking the case of China, General Chian Kai-Shek had to fly away for failing to arrange for the improvement of the condition of the people. You saw, America coming down with lacs of dollars. He did receive crores of dollars but he could not win the people over to his side.

The reason being, that he basically ignored the people. His cupidity had increased much and you saw the result the shape of severe calamity through which that country had to pass. The same difficulty stares India in the face. It is correct that we took a revolutionary step but not even a drop of blood was shed

for it. It gives us joy to see the completion of this task in an atmosphere of peace. On the occasion of distribution of land among the peasantry, the landowners presented themselves at certain places, participated in the meetings and garlanded the peasants. Expressing their profound joy they said that it was a pressing need. I would like to say to all the Zamindars and Chakdars that they should bear in mind as to how this land passed into their possession and what methods did they adopt in acquiring it. No doubt it causes bitterness to be divested of property but we take pride in the way, our brother Zamindars have put up with it and have shown no sign of regret. The way they recognized and surrendered before our law, garlanded the tiller and displayed jubilation is a singular incident in the annals of Kashmir. Through it they have set a best example before the proprietary class of the whole world. I would assure them that we thoroughly studied their arguments and tried not to be unjust to any body. We are convinced that justice was done. I would assure them once again that the present Government if it is at all an elected Government will deem it their duty, to take the children of the zamindars as their own, to furnish equal chances of progress to every one, and to partake in their sorrow as well as joy. This is not on my tongue only but it gushes out from the very depth of my heart. Having expressed these few ideas. I would thank you, sir, for the opportunity you have given me to deliver such a long speech. As it was a revolutionary measure, I thought it fit to deal with it in detail. I strongly support the motion put by Mr. Beg, before the House.

Hon'ble President:- The question now is:-

“This House accepts the recommendations contained in Chapter 4 of the Report of the Land Compensation Committee appointed by the Constituent Assembly by its resolution dated 6th November, 1951, to examine and report upon the desirability or otherwise of the payment of compensation, as provided by Section 26 of the Big Landed Estates Abolition Act, 2007, for land expropriated under the provisions of the said Act, to the effect that both on principle and policy the payment of compensation to the expropriated proprietors is not desirable and directs in accordance there with that no compensation shall be paid with respect

to land from which expropriation has taken place under the provisions of the Big Landed Estates Abolition Act 2007”

Those who are in favour this motion should say ‘ Aye; and those against should say No;

Note; The motion was adopted unanimously.

Hon’ble President:- Next item.

Hon’ble Sheikh Mohd. Abdullah: - Sir, Just as every State in India has its own specific emblems, had our State also a distinct emblem of its own prepared by the autocratic Govt. of the State. In view of the changed circumstances the need has arisen for the House to consider as to what should be emblem befitting our State. The House has to fix an emblem for the State after considering the same. In this respect I wish the House to authorize you to constitute a committee of the members of the House that will examine the question of the emblem for our State-flag and submit its report alongwith the samples of the design before the House.

I have my own opinion in this respect, which I want through you, sir, to submit before the House. We thought and realized that the best emblem should be one that belongs to no community, religion or caste in particular and is loved by all and sundry. In view of these facts, the National Conference fixed the emblem of “Plough” on its flag, to whichever religion or strata of society he belongs lives because of this “Plough”. Therefore, we took “Plough” as our emblem. There are lacs of those afflicted people who work with the “Plough”. This section of the population keeps the world alive by its sweat and toil. Therefore the “Plough” should occupy the highest place in the world.

The Nation Conference Party has acknowledged the “Plough” as their emblem. They have raised the flag bearing the emblem of “Plough” by giving their blood.

As regards the future States Emblem, I hope, Sir, that the committee you set up of the members of this House, will consider my suggestion. I suggest a leaf of “Chinar” with Plough” on its both sides and a balance in the middle. The symbol “Plough” is necessary because out of the total State population of 40

lacs, 35 lacs are connected with Plough. The world famous Chinar that enhances the beauty of Kashmir represents her natural scenery and beauty. The balance will indicate that equity and justice will be maintained.

Hon'ble Present: you can neither make any suggestion at this stage nor can you direct the Committee in this behalf.

Hon'ble Sheikh Moh'd Abdullah: I submit the Resolution before the House. "This Assembly authorizes its President to constitute a Committee of the Members of the House to examine the question of preparing an Emblem for the state. The Committee shall submit its report alongwith the samples of the design before the next session of the Assembly.

Mr. Mohi-ud-Din Handani: Sir, I second the resolution submitted by the Leader of the House.

Hon'ble President: Now the question before the House is:

"This Assembly authorizes its President to constitute a Committee of the Members of the House to examine the question of preparing an Emblem for the State. The Committee shall submit its report alongwith the samples of the design before the next session of the Assembly."

The Hon'ble Members who are in favour of this Resolution should say "Aye" and those against should say "No."

Note: the motion was adopted unanimously.

Hon'ble President: the next item in the orders of the Day stands against the name of Hon'ble Pt. Girdhari Lal Dogra. He should present the same.

Note: Instead item No.4 the Hon'ble Finance Minister moved item No. 5 first.

Hon'ble Girdhari Lal Dogra:- Sir, I want to put before the House the resolution standing against my name. The resolution is :-

"the Assembly do accord its sanction to the supplementary statement of expenditure approved by the finance Committee for S.2008 and also confirm the following Gazetted appointments made by the president:-

- | | | |
|----|---|----------------|
| 1. | Mr. Noor Mohd. P.A. to the Presiden | Rs. 200-20-300 |
| 2. | Mr. Nazir Ahamad Watch and Ward Officer | Rs.150-10-250 |
| 3. | S. Abdul Rahaman Under Secretary with three Increments fixing his pay at Rs. 260 P.M. | Rs. 200-20-300 |

***Hon'ble Pt. Girdhari Lal Dogra:-** Sir, In the last Session some staff grants were provided for the Assembly and a tentative Budget was prepared. Following this House had constituted a Committee named as Finance Committee. You should be taken as one of the reasons for non-payment of compensation been authorized to operate subject to sanction of the House; the grants needed for running the business of this office and to create new posts of the need arose. These new appoints to be confirmed by the House are against the posts already sanctioned by the House. In addition to this the finance Committee held its meetings on different occasions. It met on 26th of November, 1951 when the appointments of Mr. Noor Mohd. And Mr. Nazir Ahmad Kamili were sanctioned and the President was authorized to draw their salaries on his administrative responsibility. It was proposed that these appointments should be got confirmed by the Assembly. Similarly the appointment of Sahibzada Abdul Rehman was made on December 11, and decisions relating to certain expenditure were taken. It was also decided that a Moter Cycle be purchased and recommendation to this effect was also made. It was also agreed upon that a Jeep be purchased but the Finance Committee kept it pending afterwards. The House has to accord its sanction to all these appointments and expenditures. I would like to submit that in accordance with the rules passed by the House some days back the President could himself confirm all these appointments. Because the Finance Committee had made its recommendation, the president thought it proper that these appointments be submitted for confirmation to the House. Hence this resolution.

Hon'ble Pt. Sham Lal Saraf: sir, I second the resolution moved by Hon'ble Dogra.

Mr. Ram Piara Saraf: Were the appointments, that have been made, advertised? If so, on which date. Were any educational qualifications taken into consideration while making the appointment?

Hon'ble Pt. Girdhari Lal Dogra:- Sir, the question raised is irrelevant. If the Hon'ble Member wanted any information he could get it from the records of the

Assembly Office. Besides, if we had received any notice to this effect information would have furnished to him after collecting the same.

Hon'ble M.A.Beg:- sir, according to Rule 15 adopted by this House these appointments are within the administrative powers of the Hon'ble President. The appointments have been made by the Hon'ble President. He has full powers regarding the same.

Hon'ble President: the question is that the following resolution standing against item No. 5 in the Order of the day be passed:

“This Assembly do accord its sanction to the Supplementary statement of expenditure approved by the Finance Committee for S. 2008 and also confirm the following Gazetted appointment made by the President.

- | | | |
|----|--|----------------|
| 1. | Mr. Noor Mohd P.A. to the President | Rs. 200-20-300 |
| 2. | Mr. Nazir Ahmed, Watch and Ward Officer | Rs. 150-40-250 |
| 3. | Sahibzada Abdur Rehman Under Secretary
Constituent Assembly with three increments
Fixing his pay at Rs. 260 P.M. | Rs. 200-20-300 |

The resolution has been moved by the Hon'ble Finance Minister and it has also been seconded. Those who are in favour should say “Aye” and those against:”No”

Hon'ble Member: “Aye”

The motion was adopted unanimously.

Note: The Supplementary Statement is printed as Appendix A.

Hon'ble President: Item No. 4.

Hon'ble Pt. Girdhari Lal Dogra:- sir, I beg to move:-

“This Assembly do accord its sanction to the estimates of expenditure of the Assembly for the Samvat Year 2009 as shown in the enclosed statements prepared by the Finance Committee in pursuance of the Resolution passed by the Assembly on 5th November 1951”

Note:- For estimates please see Appendix B

Sir, according to rule 74 (1) preparation of the estimates of expenditure and the presentation of the same before the House, is necessary, because the Finance Committee has submitted this estimate and copies of the same have supplied to the Hon'ble Members. I move that this estimate be sanctioned.

Hon'ble Pt. Sham Lal Saraf:- I second the resolution moved by Hon'ble Girdhari Lal Dogra.

Mir Mubarik Shah:- I beg to move an amendment to the estimate of expenditure submitted for the year 2009: firstly:-

"That between the items Hon'ble President and Secretary the following items may be added:-

"Deputy President at Rs. 600 P.M. Total Rs. 7,200"

This amendment comes under the Head "Pay of Officer" while the next amendment falls under the Head "Pay of Establishment" It is as under:-

Hon'ble President: Before the Hon'ble member submits his next amendment, I would like to say that it was in accordance with rule 74 that this estimate was put before the House for sanction. As regards the Budget estimate, the same has been submitted by the Finance Committee. It lies within the power of the House either to sanction or reject it. As regards the increase, I would refer the Hon'ble Member to Rule 74. Keeping it in view, it will be better to put the suggestion in the form of an amendment for increase, first before the Finance Committee and then it should come up before the House. Unless it is done, it is not permissible to be brought the House in the form of an amendment.

Mr. Mubark Sash:- It means that his amendment is to be submitted before finance Committee.

Maulana Mohd Sayeed Masoodi: The question is not where it is to go but the question is that it cannot be moved at present in the House.

***Mr. Mubarak Shah:** My next amendment falls under the Head "Pay of Establishment"; that is, the grade 100-10-200 is shown against the post of Chief Stenographer. As this grade does not exist in any department in the state it may

be brought down so as to be at par with 90-6-150 grade. I think that the Steno, and the Chief Steno, should be placed in the same grade. If the work entrusted to one exceeds the work of the others, allowance may be sanctioned in his favour. The report of the finance Committee submitted by Hon'ble Dogra incorporates:-

“On further consideration the Finance Committee in its meeting of 26th March, 1952; has resolved that as price of the Land Rover Jeep now exceeds the sanctioned amount, the order be cancelled”.

He did not think it proper to retain the Jeep.

Hon'ble President:- Do you speak in support of your amendment No. 2 or in regard to item No. 3?

Hon'ble M.A.Beg:- It appears that the issue regarding the Jeep is being mixed up with the issue regarding the Stenographer.

Hon'ble President:- Please put your amendment one by one before the House so that each is discussed separately. You moved amendment No. 2 first so it will come up for discussion first.

Mr. Mubarak shah:- sir, I moved that the Chief Steno be placed in the grade of Rs. 90-6-150 instead of Rs. 100-10-200.

Maulana Mohd. Sayeed:- Sir, the motion has been made today and the amendment too has been submitted today. Does it not look proper to make the motion first and move the amendment at least one day afterwards?

Hon'ble Sheikh Mohd. Abdullah:- Sir, the copies of the Budget were lying with the Hon'ble Members for three days. I think the Hon'ble Members must have considered it fully and now the amendment too has come up before the House.

Maulana Mohd. Sayeed:- Before the motion was made

Hon'ble Sheikh Mohd. Abdullah:- The motion has already been moved.

Hon'ble President:- Hon'ble Mubarak Shah has moved the first amendment to the budget presented by Hon'ble Pt. Girdhari Lal Dogra before the House.

Maulana Mohd. Sayeed:- Some interval must be allowed between the motion and the amendment thereto.

Hon'ble President:- This is not necessary.

Mr. G.M.Hamadani: I support the amendment fixing the grade of Chief Stenographer at Rs. 90-6-150 instead of Rs. 100-10-200.

Hon'ble President:- This amendment is now put before you:-

“ For the words” Chief Steno: at Rs. 100-10-200 grade, the following may be substituted”:-

“One Steno: in 90-6-150”.

Note:- the amendment was put to the House and adopted unanimously.

Mr. Mubarik Shah:- sir, I move that instead of three drivers in the scale of Rs.75-5-100 one driver and one dispatch driver each in the scale of 75-5-100 be kept. Since the Finance Committee has laid down in its report that the purchase of a jeep is not necessary, one Driver and one Dispatch rider in the grade of Rs. 75-5-100 will do.

❖ **Major Pair Singh:-** Sir, I support the amendment, put forth by the Hon'ble Mubarik Shah to the effect that instead of three drivers and one dispatch rider be kept.

❖ **Hon'ble President:-** The amendment reads as:-

For the Item”3 Drivers in 75-5-100 etc. grade” the words” one Driver and one dispatch Rider in 75-5-100 grade” be substituted.”

Note:- The amendment was put to the House and adopted unanimously

***Mr. Mubarik Shah:** I move that the provision for the Constitution Club and other amenities and purchase of projector existing in the Budget under the Head contingencies be deleted, because I think these are not necessary and the Assembly is not a position to provide for them.

Mr.G.M.Hamadani:- I second the amendment moved by Hon'ble Mover.

\Hon'ble President:- Does the Hon'ble Mover accept this amendment?

Hon'ble Pt.Girdhari Lal Dogra: I have accepted it, Sir.

Hon'ble President:- Do you mean, that you had already accepted it.

- **Hon'ble President:-** The amendment reads as :
- “The item Constitution Club and other amenities and purchase of a projector may be deleted.”
- **Note:-** The amendment was put to the House and adopted unanimously.

Hon'ble President:- Now Hon'ble Pt.Girdhari Lal Dogra may move item No.4 in its amendment form.

Hon'ble Pt.Girdhari Lal Dogra: Sir, one of the amendments made to the Budget, presented by me before the House, is, that Chief Steno be placed in the grade of Rs.90-6-150 instead of Rs.100-10-200 ; and similarly another amendment lays down that instead of the provision of 3 Drivers only one Driver and one Dispatch Rider , both in the Grade of 75-5-100 be provided. Likewise Constitution Club and other amenities and the purchase of a projector, is to be deleted. I would request the House to pass the Budget in its amended form.

Hon'ble M.A.Beg:- I second it.

Hon'ble President:- The Budget in its amended form is now before the House. Those who are in favour of its being passed should say "Aye" and those who are opposed to it should say "No".

Note:- The motion was put to the House and adopted unanimously.

Hon'ble Pt.Girdhari Lal Dogra:- Sir, I rise to move:

"This Assembly do accord its sanction to the attached rules governing the allowance of members as framed by the Finance Committee in pursuance of the resolution of the Assembly dated 5th November,1952."

Note: For rules governing the allowance of members see Appendix 'C'.

Sir, on 5th November, 1951, the House had framed certain provisional Rules governing traveling allowance and Daily Allowance of the members, and it was also agreed upon that the Finance Committee should after due consideration frame the Rules to be presented to the House. I submit the Rules before the House, as prepared by the Finance Committee in this respect. Through you Sir, I want to submit before the House certain important points there from. The first point is:

That the may draw road mileage at the rate of Anna's 6 per miles between the place of their usual residence and the place of meeting of the Assembly or the place of transacting any business entrusted to them by the Assembly. They may draw daily allowance at the rate of Rs.25 proposed in this behalf. Here in only one addition has been made after the collection of data from the constituent

Assembly of India and other state Assemblies namely that at Hon'ble members entitled to draw a daily allowance one day before the commencement of the session and one day after its closed. Beside when an Hon'ble member remain at the place of the meeting after the termination of the session in connection with the transaction of any business entrusted to him and if such businesses to commence within a week time he can draw daily allowance or T,A for this interval which ever is less . Besides there is another point i.e if any Hon'ble member arrives at the place of the meeting to attend the Session and is prevented from attending the Session he is required to fully explain the cause of such absence to the satisfaction of the Hon'ble President who shall be competent to excuse his absence. In such a case he can draw daily allowance, at full rates, for the first six days; and at half rates, for the further twelve days and no allowance will be admissible for a period days exceeding eighteen days.

Hon'ble Sheikh Mohammad Abdullah:- On a point of information sir, I want to know from the Hon'ble Mover, if the members can claim daily allowance for one day before the Session and one day after its close. No permission of the Hon'ble President is required in this behalf, because it is incorporated in the Rules and thus they can draw daily allowance for two days provided that the member arrives one day before the commencement of the Session in the forenoon and leaves one day after the close of the Session in the afternoon.

Hon'ble President:- Whatever is laid down in the Rules is in my opinion correct.

Hon'ble Pt.Girdhari Lal Dogra:- Whether a member arrives on the same day on which the business is scheduled to commence, or arrives three days earlier ; daily allowance not exceeding one day (before the commencement of the Session) will be admissible but the members who are resident of the Headquarter cannot draw daily allowance for such a day ; so a clarification was needed.

Hon'ble Sheikh Mohammad Abdullah:- In the case of those members who have to come from far off places, it is necessary that they should arrive one day earlier, as they have to make arrangements for boarding and lodging. Therefore,

daily allowance of one day before the commencement of the business is provided in their case.

Sardar Harband Singh Azad:- Sir, I second the motion presented by Mr.Dogra.

***Mr.Mubarik Shah:** I want to move an amendment to the motion submitted by the Hon'ble Mover.

In item No. 1 Clause D (i) for the words. "At the rates admissible to him if he had traveled by road" the words "at 1½ times the fare for the journey " may be substituted.

Sir, the justification for it is that the uniformity of the two alternative as provided by the Rules can be maintained only by taking up this course, i.e if they come by air they can draw 1 ½ times the fare for the Air journey and if they come by road they can get mileage as provided in the rules.

Mr.G.M.Hamadani:- Sir, I second the amendment put forth by Hon'ble Mubarik Shah.

Hon'ble President:- Does the Hon'ble Mover accept this amendment?

Hon'ble Girdhari Lal Dogra:- Yes Sir, I accept this.

***Hon'ble President:-** In such a case there is not need to put the amendment to the House. A little mistake was committed with regard to the two amendment already moved. As the mover had already accepted these it was not necessary to put them to the House. Now the Hon'ble Mover may move his amendment.

***Mr.Mubarik Shah:-** Sir, in Rules 2 and 3 of this motion , the following provision with regard to the daily allowance of the Hon'ble members has been made :

- (1) No member may draw mileage allowance and daily allowance for the same day.
- (2) No member who arrives at and leaves a place of meeting on same day may draw daily allowance for the day.

Ordinarily a member who arrives at and leaves the place of meeting on the same days after transacting the business cannot get daily allowance. In such a case an unnecessary restriction exists in the proposed T.A rules . Hence I submit the amendment to the effect that Rule 2 and Rule 3 governing T.A and D.A. of the Hon'ble Members may be deleted.

Mr.G.M.Hamadani:- Sir, I second the amendment put forth by Kh.Mubarik Shah.

Hon'ble Pt.Girdhari Lal Dogra:- I accept it.

Hon'ble President:- Now , the Hon'ble Mover may move the amendment in its amended form.

***Hon'ble Pt.Girdhari Lal Dogra:-** Two amendments have been proposed and accepted to the motion made by me. Firstly that in Rule 1,B (i) for the words "at the rates admissible to him if he had traveled by road" the words "1 ½ times the fare for the air journey" be substituted. And secondly, the amendment for the deletion of Rules 2 and 3 has been made. Both the amendments have been accepted. Therefore, I move that the motion be adopted with these two amendments.

Sardar Harbans Singh Azad:- Sir, I second it.

Note:- The motion as amended was put to House and adopted unanimously.

***Hon'ble President:-** When the House took its decision with regard to the land compensation Motion, which was before the House. I announced that "Ayes" have it. It is apprehended that it may create a little misunderstanding. It does not mean that the motion was adopted by majority of votes but it means that not a single voice was raised against it and so it was adopted unanimously.

Hon'ble President: - We have finished all our business. I want the permission of the House to authorize me to adjourn the Session sine die.

Mr.Mubarik Shah:- I move that the Hon'ble President be allowed to do so.

Hon'ble Sheikh Mohammad Abdullah:- It is not required, Sir, you already possess such powers.

Hon'ble President: - No Hon'ble Member need put a motion but under the Rules, I cannot adjourn the Session for more than three days.

Hence I seek your permission to adjourn the Session sine die.

Note: The House agreed.

Hon'ble President: The Session is adjourned sine die.

APPENDIX A

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

Supplementary Statement of Expenditure Approved by the Finance Committee for the year 2008.

Under section 74(2) of the Rules of Business and Procedure passed by the Constituent Assembly on 25th of March, 1952, the following statement of expenditure sanctioned by the President on the advice of the Finance Committee is submitted for sanction by the Constituent Assembly.

The budget of the Constituent Assembly was sanctioned at the Srinagar Session October-November 1951 and certain unforeseen charges which were not included in the Statement by the Government had to be provided for. Besides, certain Gazetted appointments provided in the Budget for the year S.2008, were made by the President of the Constituent Assembly with the advice of the Finance Committee. Since under the Resolution passed by the Constituent Assembly on 7th November, 1951, the president has been authorized to exercise the same Financial Administrative powers with regard to appointments and grants of the Assembly Office as were exercised by the Ministers with regards to their own departments. The Gazetted appointments which are beyond the competence of the Minister, were made by the President Constituent Assembly in anticipation of the sanction of the Assembly which was not sitting at that time. It is, therefore, requested that the following resolution of the Finance Committee may be confirmed.

Resolution

Date when passed

1. Resolved that the appointment of Mr. Noor Mohammad S P.A to the Hon'ble President on Rs.200-20-300 and of Nazir Ahmad Kamili, as Watch and Ward Officer

In the grade of 150-10-250, as sanctioned by the President be approved by the Constituent Assembly. In the meantime their salaries shall be ordered to be drawn on administrative Responsibility of the President. 26th Nov. 1951

2. Resolved that sanction be accorded to the appointment of S.Abdur Rehman as Under Secretary in the Constituent Assembly in the Scale of 200-20-300 with effect from 10th Katik,2008,date from which he has actually been working in the Office and his pay be fixed at Rs.260/- p.m. in the above scale. A recommendation may be made accordingly for Confirmation of this resolution. Until then the President will Order his pay being drawn on his administrative responsibility 26th Nov.1951

3. Resolved that the expenditure incurred in connection with the "At Hone" given by the Hon'ble President to the Hon'ble Members of the Constituent Assembly at the Assembly Lawns be debited to the contingent grant of the Assembly.

Further that a Supplementary provision for an entertainment grant of Rs. 2,000/- be asked for to meet charges of this nature during the Current year till a suitable provision is made under this head in the next year's budget 11th Dec. 1951

4. Resolved that the President be authorized to make supplementary Demand for sum of Rs.20,000 to meet the following charges for Which no provision has been made in the Constituent Assembly Budget for the current year and confirmation of the Constituent Assembly may be made at next session. 26th Nov. 1951.

1. Purchase of a motor- cycle	2,500
2. Vehicles	1,600
3. Pay of 2 Motor drivers, one for jeep and one Dispatch Rider at the rate of Rs.75/- p.m. each in the grade of 75-5-100 and cost of petrol and maintenance Charges of vehicles.	1,600
4. Improvement of the existing Library and Purchase of new books.	3,000 -----
Total :	20,000 -----

Note: On further consideration the finance Committee in its meeting of the 26th March, 1952, has resolved that as the price of the land Rover Jeep now demanded exceeds the sanctioned amount, the order cancelled if possible may be and Transport Department through whom the order was placed, be asked to treat the order as cancelled in the alternative purchase the jeep for any other Government Department. If this is arranged, the provision for the jeep will not be operated upon.

Further the unspent balance of the lump sum grant of Rs.10,000 , sanctioned by the Government under Cabinet Order No.1024-C of 1951 for the Advisory Board set up in the preliminary arrangement were amalgamated with the budget of the Constituent Assembly to supplement its grants during the year 2008.

APPENDIX B

**Budget Estimates of the Constituent Assembly for the year 2009 as
approved by the finance Committee for submission to the Assembly.**

In its meeting held on the 17th January, 1952, at Srinagar the Finance Committee set under the Chairmanship of the Hon'ble President and after careful consideration approved the budget of the Constituent Assembly which is submitted herewith for confirmation by the Assembly so that the figures may be incorporated in the General Budget of the State for the Samvat year 2009.

The estimates including provisions both for the Assembly and its Secretariat and are submitted for sanction under Rule 74 of the Rules of Business and Procedure of the Assembly.

Primary Unit	Details	Amount(Rs)
Pay of officers	Hon'ble President at Rs.1,000 p.m	12,000
	Secretary Constituent Assembly in 400-25-600 grade on his personal pay of Rs.700 p.m. as Session Judge	8,400
	Joint Secretary in 400-25-600 grade	5,100
	Under Secretary in 200-20-300 grade	3,235
	P.A to Hon'ble President in 200-20-300 grade	2,500
	Watch and ward officer in 150-10-250 grade	1,855
	Marshal in 150-10-250 grade	12,800
	Temporary Move Allowance	360
		35,250
Pay of 2 Assistants for the Constitution Establishment	Branch in 150-10-250 grade	3,710
	1 Chief Reporter in 150-10-250 grade	1,980
	1 Senior Translator in 150-10-250 grade	1,800
	6 English and Vernacular Reporters in	7,621

	90-6-150 grade	
	4 Translators in 90-6-150 grade	4,473
	1 Head clerk in 90-6-150 grade	1,113
	1 Head Clerk in 90-6-150 grade	1,132
	1 Accountant in 90-6-150 grade	1,113
	1 Chief Stenographer in 100-10-200 grade	1,330
	1 Stenographer in 90-6-150 grade	1,314
	Cashier in 75-5-100 grade	1,080
	7 Clerks in 50-5-100 grade	5,135
	1 Liberian in 90-6-150 grade	1,080
	Watch and Ward Clerk in 50-5-100 grade	600
	3 Junior Clerk in 40-4-80 grade	1,536
	1 Stencil Writer (Katib) 40-4-80 grade	480
	1 Press Mechanic in 40-4-80 grade	480
	1 Daftri in 30-2-50 grade	360
	3 Drivers in 75-5-100 grade as per resolution passed by the Finance Committee on 26-11-1951)	3,000
	1 Jamadar 16-1/3-15	228
	4 Watch and Ward Men 12-1/3-15	576
	7 Messenger Boys(Three permanent and 4 seasonal for six months) 12-1/3-15	720
	12 Peons including Farash 12-1/3-15	1,788
	Total	42,837
Allowance and Honoria	Dearness Allowance	4,370
	Ration Allowance	3,180
	Temporary Move Allowance	3,710

	D.A and T.A to the Hon'ble Members of the assembly	1,80,000
	Allowance for Temporary Reporters and Translator	1,000
	Total	1,92,260
Traveling allowance	T.A (Gazetted)	6,000
	Non-Gazetted	10,000
	Total	16,000
Contingencies	Recurring	5,000
	Non-Recurring	8,000
	Postage and Telegrams	2,000
	Improvement of Library	8,000
	Constitution Club and other amenities and purchase of a projector	5,000
	Entrainment grant	3,000
	Bye-Election grant	10,000
	Printing and Stationery (G-29)	15,000
	Grand Total	3,36,347

APPENDIX C

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

The Finance Committee appointed by the Constituent Assembly under resolution dated 5th November, 1951, was directed to recommend to the Assembly the Allowances to be paid to the members of the Assembly and its Committees and pending such a report the Assembly had sanctioned the rate of Daily Allowance at Rs. 25/- per day and Traveling Allowance at the rate admissible to Officers drawing Rs. 750/- or above p.m. under the K.S.R.

The Committee has in this respect collected data from the parliament of India and other States Legislatures and has after due consideration framed the following rules for adoption by the House.

**Rules Governing the Allowances of the Members of the Jammu and
Kashmir Constituent Assembly , 2008.**

1. The members of the Constituent Assembly will be entitled to the following rates of traveling allowance and daily allowance in respect of their journeys to attend a Session of the Assembly or for transacting any other business connected with their duties as such Members:-

(a) **Journeys by road** : Road mileage at the rate of annas 6 per mile between the place of usual residence of a member and the place where the Assembly meets or such other business is conducted provided the journey is not within the radius of 8 miles of the place where the Assembly meets or such other business is transacted.

(b) **Journeys by air** : A Member who performs the journey by air:-

- I. between Srinagar and Jammu and vice versa may draw traveling allowance at the rates admissible to him if he had traveled by road;
 - II. from any place within the State from where he is deputed to any place outside the State may draw traveling allowance equivalent to one and one-fourth of the standard air fare;
 - III. **Journeys by rail:-** One and one-half of the railway fare of the first class.
2. No Member may draw mileage allowance and daily allowance for the same day.
 3. No. Member who arrives at and leaves a place a place of meeting on the same day may draw daily allowance for that day.

4. In calculating mileage allowance for journeys by road fractions of a mile shall be omitted from the total of a bill for anyone journey but not from the various items which make up the bill.
5. **Daily allowance:** A consolidated daily allowance of Rs.25/- (Twenty five) per diem each day of residence at the place where the Assembly meets or the other business is transacted until the close of the Session or the completion of the other business including residence not exceeding one day before the commencement of the session and after its close are before the commencement of the other business and after its close;

Provided he attends all meetings of the during Session and in case of absence from any meeting has explained such absence to the satisfaction of the President:

Provided further that where such absence has been explained to the satisfaction of the President allowance shall be drawn at the following rates: -

- (a) For the first 6 days of absence in a Session, full rates
 - (b) For a father 12 days of absence in a Session, half rates
 - (c) For days of absence in e excess of eighteen in a session, no allowance.
6. When there is an interval of not more than a week between the termination of the meetings of the Session of a Committee and the commencement of those of another Session or Committee at the same place both of which a member is required to attend and when such a member remains at the place during the interval, he will be entitled to draw daily allowance for such period of residence or draw traveling allowance for going to and coming back from his usual place of residence, whichever is less.
 7. The allowance for non-members elected or nominated to Committee set-up by the Assembly shall be the same as for the members of the Assembly.

8. A member who claims any traveling or daily allowance under these rules shall support his claim by recording a certificate on the concerned bill in the following form;
“Certified that no amount has been claimed for this journey period in the bill drawn from any other source or previously.”
9. Bill shall be prepared in duplicate on printed form to be obtained from the office of the Secretary Constituent Assembly, and be returned to him duly filled in and signed and one of the copies being stamped and receipted. The hours of departure and arrival shall be noted in the column for the purpose. The entries in the bill shall be completed, the dates of journey including the return to be claimed shall be entered and the total claim shall be entered in the figures as well as in words.
10. Such bills of the members will be paid before audit after preliminary check by the Office of the Secretary Constituent Assembly, and be countersigned by the President endorsed in the name of Officer of the Treasury at which the member desires to receive payment and such treasury Officer shall arrange the payment thereof forthwith to the concerned member or to any other person authorized by the members in this behalf.
11. Notwithstanding anything contained in these rules no Minister, Deputy Minister or Parliamentary Secretary shall be entitled to any traveling or daily allowance under these rules.
12. Immediately after the close of Session all the traveling allowance bills of the Members will be post-audited. Objection, if any, shall be intimated to the member by the audit not later than three months from the date of the encashment of the bill.
13. In case of dispute regarding interpretation of these rules by the audit, the Ruling of the President shall be final and binding on the audit.

(sd) HIRANAND RAINA
Secretary;
Constituent Assembly.

SATURDAY, the 7th June 1952, (the 25th Jeth, 2009).

The Constituent Assembly met in the Assembly Chamber Rajgarh Palaces, Srinagar, at eleven of the clock.

Mr. President (Hon'ble Ghulam Mohd.Sadiq, BA,LLB) in the Chair.

Hon'ble President:- Hon'ble Sheikh Mohammad Abdullah.

Hon'ble Sheikh Mohammad Abdullah:

Sir, I rise to move the following resolution

“Resolved that the National Flag of the Jammu and Kashmir State shall be rectangular in shape and red in colour with three equidistant vertical strip of equal width next to the staff and a white plough in the middle with its handle facing the strips. The ratio of width to the length of flag shall be 2:3.”

Sir, while framing the Constitution of the country the question of flag is of great importance. As a rule every nation of the world has its aspirations, ambitions, desires, aims and objects. Similarly the four million people of Kashmir have their own aspirations, ambitions and desires and to achieve them they have fought continuously and have never hesitated to make any sacrifice. The struggle of Kashmiries has taken an obvious turn for the last twenty years especially and whatever their ambitions and aspirations were they have made it manifest to the world to a great extent.

It was the 13th July 1931, when for the first time the people of Kashmir raised their voices against the system, which had trampled upon their hopes and desires. This voice made their aspiration obvious and the sacrifices they had to undergo in raising this voice, form part of history now, which I need not reiterate here. People marched on consistently and underwent various privations. They went ahead un-flatteringly. It will not be out of place to give a brief description of their desires and aspirations in this House. Kashmir has always been the cradle of humanism knowledge, unity, brotherhood and religious tolerance (Cheers). A conspicuous thing in the history of Kashmir is, that it has never differentiated between high and low or between Hindus and Muslims, that is why in India,

Kashmir had not only the status of a country but it was considered a place of religious pilgrimage. In knowledge, religion, brotherhood and tolerance Kashmir had a high position. Ever since Kashmir lost its freedom, various calamities befell it but the people of this country did not lose their spirit. In 1932 the people of the soil once again shook off their lethargy and rose to action in order to revive the traditions for which this country has always been famous. At last, the time came when ideal was to be achieved for which these sacrifices were made. The symbol of all the desires and aspirations of a country is its flag. When the old system, which has trampled upon the hopes of this country, is dying and the resplendent sun of freedom is rising in the horizons, it is necessary that a symbol for the country should be adopted, which should represent the hopes and desires of four million people. To achieve this end we had to struggle a lot. Men, women and children had to face bullets; they had to spend their time in dark prison cells; they had to pay fines and thousands had to bear flogging on their naked bodies. I do not want to take the time of the House repeating this long tale, but every noting that wants to carry forward its struggle for freedom must be prepared to undergo such sacrifices. It is a common saying that freedom is not attained by mere asking, but it has to be achieved, it is not attained by making demands but by making sacrifices. I feel pleasure in saying that for the last 20 years people did not hesitate to undergo any sacrifice for the sake of freedom (Cheers) and that is why the representative of four million people of the State are here in this House today realizing their objectives and aspirations for which they have undergone sacrifices. As I have already stated that these aspirations are represented by a symbol. It is necessary that this House should also decide upon a symbol which will represent all those hopes and aspirations. So the Basic Principles Committee, after giving due consideration to all matters and keeping in view all those facts and desires, has proposed this flag. The more important thing kept in view related to the occupation of the people of this country generally, and their desires and needs. Before giving the details regarding this flag I would request the Hon'ble President to unfurl the flag, before the House.

Note: (The flag was unfurled from the gallery).

The four million people of Jammu and Kashmir State are generally divided into two classes, out of whom one class mostly comprises agriculturists who earn their livelihood by working on the land and the second class represents the working class who work on the roadside. Masons, carpenters, shopkeepers and such other people also fall in this category who earn their livelihood by dint of labour. Among these four million people there are some who live without doing any work. The biggest class in our State is of peasants, and our history says that this class was in a bad plight. Keeping aside the old history we see the present ruling dynasty came here and purchased this country. This dynasty did not only purchase the forests, water springs and havens of this country but it purchased also the people of this country for five million rupees and thus became the lord (owners) of this country. At the time of payment of this sum, Maharaja Gulab Singh had no money. He approached a Bania and asked him if he was ready to lend him the sum. The Bania replied that if the money was given to him what would be his share in the deal (bargain). Maharaja Gulab Singh responded that his progeny will be ruler of this country and the Prime Minister-ship of the State will be inherited by the Bania's prong. Besides this he accepted the partnership in land revenue in the proportion of 15:1, thus the deal was made amongst all three Banias,. The British were the big Bania who had come to India as such. They sold Kashmir to Gulab Singh and Gulab Singh made a deal with a third Bania. At last the people of Kashmir fell a prey to slavery because of this bargaining. In spite of all this the people of Kashmir rose in revolt but could not succeed because of the help rendered to Maharaja by the British and thus they lost their freedom. By and by an after thought struck, Maharaja Gulab Singh namely that another partner should be removed. He then told the other Bania that he would not pay the share of one anna per rupee to him out the land revenue but he would appoint his prime Minister from his family. He offered him lands wherever he liked in lieu of one anna share of the land revenue. As he chose the best land not only in Kashmir but in the Jammu Province and in every Tehsil of the State he became the owner of all the best areas of land in the State. Every son of the

soil aware of the fact how they begin to oppress the peasants afterwards. Sir, I have simply quoted an instance of how the peasants became slaves of the another slave. In the same way the big officials and the influential people got the privileges of big jagirs and chaks and entangled God 's humanity in the clutches of slavery. In short the plight to which the peasants were put and their present prevailing condition need no explanation.

Reporters or tourists whether from India or abroad whosoever came here painted the picture of poor peasants life. The stories recorded in different books regarding the sad plight and destitution of these poor peasants are very painful. Even today any tourist either from India or foreign lands is moved to tears after witnessing this destitution. When the freedom movement started here it was necessary to rescue this downtrodden class from slavery and thus that attention of our movement was turned to the welfare of the peasantry. We raised a strong protest against the oppressions to which the peasant was subjected. In our country the prominent and salient symbol of a peasant in his plough and that is why the plough must from a part of the flag. National Conference the largest Organization of this country had led the freedom struggle. As I have already stated, the most down-trodden class in the State was that of the peasants whether he was from Kashmir, Jammu, Ladakh or Karnah. His plight was extraordinarily bad and so it was necessary for the freedom movement that it should attend to rescue him from penury and destitution. Under these circumstances inclusion of a plough in the flag was necessary. This country is an agricultural country and we have no industries here which makes it all the more necessary to include the symbol of plough in the flag. Besides, the peasant being the backbone of the country, it is the main object of the movement to, better this lot and unless the economic, moral and social conditions of the peasants are improved and his status raised this country cannot progress. The plough is the symbol of a peasant and thus forms the salient feature of the flag. It should be our aim to raise it to heavenly heights.

The second salient feature in this flag is its red colour. This colour represents workers and laborers. The world has accepted the fact that the progress and welfare of the world depends on the toil of a worker and a peasant. Progress either in the field of science or elsewhere is mainly due to the worker and the peasant. The condition of a peasant and of a worker was very bad and the big people exploiting their work lived luxuriously and were busy in self-indulgence while the class who contributed for their luxury was in a miserable bad plight. Another class is of workers and it is an admitted fact that unless workers and peasants work hard, the world cannot progress. The red colour represents the working classes and that is why the Basic Principles Committee has put forth the suggestion that the red colour should form the background. Sir, I have already stated that there are only these two classes in our country. Not only those who working factories are workers but those who work on the roadside or who make their both ends meet by working on shops morning till late in the evening also fall within this category. I see very few people who live by exploiting others labour and this House has exterminated such people so that such a class may not rise again. This was our aspiration and hope for which we underwent sacrifices for the last 20 years.

The third feature of the flag is that it has three vertical, parallel and equidistant lines. Our State is generally and geographically divided into three parts i.e. Jammu province, Kashmir and the Frontier Illaqs and the three vertical and equidistant lines obviously represent provinces of Jammu, Kashmir and Frontier (Cheers). These are some main symbols, which the Hon'ble Members would find in the flag. As I have already stated while moving the resolution that the symbols in the flag represent the aspirations, hopes, aims and objects of the people of any country for which the people of that soil have struggled it is necessary that while we are marching ahead towards freedom and the old system is dying the symbols of that old system should be exterminated (Cheers), the darkness which had been source of misfortune to four million people of the State should also banish, and the bright light should prevail everywhere (Cheers). Now it is for the House to decide the question of the symbol of the

country in the present changing circumstances. With these words, I move the resolution before the House.

Hon'ble G.L.Dogra:- Sir, the resolution moved before the House has been fully explained by the Leader of the House and needs no elucidation. However, I shall speak a few words before the House. Every State has an idea and to represent this ideal a symbol is necessary. Sir, the ideal before us has been fully elucidated by the Leader of the House, and in this respect whatever the Committee had proposed, is before the House. A symbol is very important for a country so that everybody who visits the State should understand what the State stands for. It is necessary for every countryman to know the ideal for which he is striving. This symbol cautions every worker to safeguard the ideal from which he draws his inspiration. This fluttering symbol warns all its opponents to set themselves right failing which they will be chastised by the sentinels of the symbol. With these words I support the resolution.

Hon'ble President: - Does Hon'ble Mr. Beg want to speak?

Hon'ble M.A.Beg: Not just now, sir.

Mr. Assadullah Mir: - Sir, the Leader of the House has moved a motion in the House for adopting a flag for the country and I want to speak a few words in its support. Sir, the history stands witness to it that Kashmir was enslaved by foreign rules. Nations came one after the other and established their domination against the wishes of four million people of Kashmir. They constructed palaces at the cost of these people. But the rule of these foreigners came to an end because of their misdeeds. The Kashmir people's desires and aspirations were not realized for centuries and we were not able to terminate the foreign rule so as to establish representative Government of four million people here. Our past history bears testimony that Mughals, Pathans and Sikhs came here and to reiterate their history will take much time of the House. I will restrict my speech to that event of history when by the Treaty of Amritsar the British sold the Kashmir for Rs. 50,00,000/- and the Dogra dynasty came to power. As the Leader of the House has just now described in detail all the miseries and sufferings which the foreign rule inflicted on the four million people of Kashmir. I am justified to say, that the

foreigners who had just a little sympathy with us never hesitated to write, after witnessing the sad plight of people of Kashmir, that it is a paradise, a garden of Eden but the people of this place are naked, unarmed and oppressed. With your permission, Sir, I want to quote a few instances from the works of a historian, Dr. A. Scott. Who has in 1920 made mention of the then prevailing conditions in very painful words which is a pathetic story from which the House will be able to judge the conditions of the people under the foreign rule which had condemned them to the abyss of darkness. Thus writes Dr. Scott.

“Alas of the record of Kashmir be read aright. it is a moving tale of human sins, and there are not many races in the world upon who the hand of fate has been laid so heavily as upon those who inhabit those. Perhaps the first corner of the earth”.

This was the condition of the people of Kashmir. I can say with pride that 13th July, 1931 was an auspicious day when under the leadership of Sher-I-Kashmir the sons of the soil raised their voices for freedom. People had lost all patience with the foreign rule and its oppression and they raised the voices that: -

“It is the will of the people and not the force which forms the basis of a State.”

People wanted that the Government should be founded on the will of the people and that the rules cannot thrust their rule on four million people of Kashmir against their wishes. It is a moving tale to enumerate the sufferings inflicted by the irresponsible system of Government on the freedom loving people of Jammu and Kashmir. A number of young men were thrown in dark prison cells; many were flogged and punitive taxes were imposed on them. This is a tale full of misfortune but the sentiment of freedom could in no way be suppressed and according to a verse of Dr. Iqbal these people marched ahead.

The era of democracy is fast approaching;

Wherever you find an old order, wipe it out.

Our Qaid-i-Azam led the nation and in 1931 four million people of Kashmir gave his movement a practical shape. People from outside Kashmir co-operated with our movement and the Indian leadership also felt that Kashmiri people were actually oppressed and their struggle was based on justice. Hindus, Sikhs and

Muslims of this country rallied round one banner under the leadership of Qaid-i-Hurriyat which resulted in the slow and steady advance of our Carvan and in 1947 i.e. in Kartik 2004, the ruler of the State was obliged to transfer power to the people. As the Qaid-i-Azam has stated freedom is not attained by mere asking but is achieved and so we had to undergo sacrifices. The Government machinery was in disorder and cracked. We again set it right. We worked day and night to set it right and marched on with the people's voice. Now the fateful day has come when the true representatives of four million people have assembled at one place under your president ship to decide the future symbol of the nation. Sir, in this House, various Committees were formed for different purposes and for this purpose too a Committee was formed whose report is before the House in the form of a resolution so that some specific symbol should be adopted for the country which will truly represent our culture and civilization.

Sir, today is an auspicious day when the Qaid-I-Azam has put forth before the House a proposal of nation's flag in the form of a resolution and has thrown ample light on it. I, therefore, bowing before the flag will speak the following words (cheers).

Sir, this is a limited act that this symbol is being adopted for the Government of four million people of Kashmir and all these people belong to working class, whether they be peasants or workers. Labourers or workers on the roadside educated ones or officers, clerks or other workers all belong to this class. If there may be any employee from the Government who does not put physical labour but works mentally only, he too is a worker. All peasants, artisans and shopkeepers who earn their livelihood by means of business or an ironsmith who makes implements for a peasant all belong to the working class. So, there should be such a symbol, which should represent every class without any distinction of caste and creed. It is necessary that this flag should be the representative of the culture, civilization and social development of the country and it should represent the working class which comprises Hindus, Sikhs and Muslims of the country. I am justified to say that the red background of the flag has a specific reason. The flag could be of black, white or blue colour but this red and white colour

represents that this is a flag is a million people who are mostly workers and besides; the colour of worker all the progressive countries is red. As the Quid-I-Azam has said that the symbol of the workers of the world is red, we have adopted this colour as the base of the flag. Ninety percent population of Kashmir consists of the peasantry and our daily needs are directly connected with them. It is the peasant who feeds the nation and meets all the necessities. This class produces crop and builds the country by the help of the plough. Therefore, in the center of this flag a plough of white colour has been located. If you look at the wooden plough you will see its colour is not white put we have shown the plough on the flag as white, because our peasantry has come out of the darkness into the light. This plough is the representative of the peasant class whereas its white colour represents light, therefore, it is clear that our peasantry has bright future and so has our nation.

Then there are three equidistant and vertical white stripes, which represent three culture units of Frontier. Jammu and Kashmir geographically. We could assign green of some other colour to it but as our cultural regions are also enlightened, the colour of these stripes is white.

Sir, the symbol of culture, civilization and social development of four million people of this nation has been displayed before this house today and if the House adopts this symbol, I would request that this flag of the nation should be unfurled on all Government building from tomorrow. With these words I support the resolution moved by the Leader of the House.

Hon'ble M.A.Beg: Sir today is the day of rejoicings for the four million people of Jammu and Kashmir. The people of Kashmir have not carried on their struggle for the last twenty years only but the clues of their unorganized struggle in the past are also available. Today the four million people are enjoying the fruit of the sacrifices of our martyrs. I can in no way add anything to the resolution and to the feelings and sentiments expressed by the Leader of the movement and do the speeches elucidating the resolution. Today we are officially taking decisions regarding the flag. The significance of the different parts of the flag has been explained in the resolution. The background of the flag is red, which is the

symbol of the pious and placid blood of these thousands of martyrs who sacrificed their dearest lives for establishing the political powers in the country and to liberate the people from slavery. Today we are saluting the souls of those men and women, old and young, who sacrificed their dear lives in 1931, 1932 and 1933. We feel happy because the voice they raised to liberate this nation has borne fruit to be witnessed in the form of the flag to adopt for which this resolution has been moved. As the Qaid-I-Azam has stated, every nation and country has a symbol, we also adopted a flag with plough as a symbol of our political organization in 1939. From the very outset it was the Programme of National Conference to redeem billions of our people from exploitation. Thus we adopted the symbol of plough to represent the toiling masses and under this banner we liberated our country. Today when we are adopting flag for our State. Loyalty demands that we should adopt a symbol permanently to commemorate millions of people who have made sacrifices for the achievement of this freedom. And as long as this party remains in power in the State, this symbol shall permanently be a memorial to those dear departed comrades who in different ways contributed their share to the freedom. Struggle. It is, therefore, essential that the nation which comprises the peasantry for whose deliverance unparalleled sacrifices were made should adopt the plough as their symbol. It augurs well that this plough should become the symbol of the flag as it represents the peasant class. The Qaid-I-Azam said that our country is divided into three geographical units. In 1939 when a flag for the largest political party was adopted for the first time. It was a flag with a plough on it. As different nations adopt symbol to represent different sects on their flags, we in 1939 decided otherwise, because our flag did not represent different sects only. Our movement was not of communal nature though in the beginning it had a little communal touch, i.e our organization was known as Muslim Conference. But when a historian studies our ideal and Programme of those days, the demands which we put forth then, and all those things for which we made greatest sacrifices, he will reach the conclusion that this movement represented four million people without any distinction of caste and creed although it was called by the name of the Muslim

Conference only. In 1939 when we adopted our own flag we decided not to represent different sects by different parts of our flag i.e. such and such part will represent a Hindu, such and such part will represent a Christian or a Rarijan or such and such part will represent Muslims. It is fortunate that we discarded all such things from the very beginning and had no such conceptions or ideas. According to this policy the flag we adopted did not represent any sect. The flag has three stripes and the Quid-I-Azam explained that these represent three geographical units. The area of Frontier Province is 58332 square miles and it is the biggest illaqa in respect of area. The area of Jammu Province is 12378 square miles. While that of Kashmir Province is 13,500 square miles and the total area of the State is 84,000 square miles, which comprises these three geographical and cultural units. We have represented all the three units as one place in a collective form on the flag. In his policy speech our Leader Qaid-I-Azam has declared that every cultural unit shall have the full right to progress on the basis of self-determination and it will be provided with every facility for progress. Culture and unity of all these four million people will always be kept in view so that every child and every man being the master of his own fate would better the collective fate of the country. These strips on our flag represent the same movement. I would state in support of this resolution that this flag will be the flag of Jammu and Kashmir State and will have its jurisdiction over all those illaqaas of Gilgit.Muzaffarabad , Mirpur and Poonch that are at present in the hands of enemy. This will be the flag of these oppressed brethren who have been separated from us by the enemy action for the last four years. Today we all pledge that unless this flag flies over Kohalla, Mirpur, Askardu and Gilgit etc. we will not rest (cheers). Our five to eight lakh brethem were separated from us by the false promises of plenty and winder scope of progress and now exploited and oppressed according to information pouring in from that side. If we pledge to unite the four million people of the State and to unfurl this flag every inch of the 84,000 square miles area of the state. We pledge to play in important role to add to the dignity of Jammu and Kashmir State. I am sure that I am expressing the sentiments of everybody from the State and I am expressing the sentiments of

every workers of the National Conference right from a Leader to the rank and file. When I state before the House that the people separated from us should rejoin us and take part in running effectively the administration of the country and leading it to progress as we the 75 members of the House are striving. I am sure that the God Almighty will accept our prayer. Our struggle for Naya Kashmir is not a local one but it is a struggle against every exploiter. We know that in the so called Azad Kashmir area people are exploited. Even today and the old money lending and Jagirdari system, which we have buried three years ago, is encumbering them as it was during the rule of Maharaja Hari Singh or his predecessors.

It is easy to incite and mislead people in the name of regions and other things, but this was not the custom with our Holy Prophet. It is altogether a different thing to serve humanity without and distinction of caste and creed and if our neighboring country does not share the feeling that the four million people of this country have the right to decide their destiny themselves, it is our bad luck. The people living on this side of the ceasefire line have proved not only once but dozens of times that they are themselves the masters of their fate and that no power on earth-what to speak of Pakistan-can stop them (cheers). We will decide upon our flag ourselves. It is a folly to consider the flag a piece of cloth but this is the symbol of our movement, programme and freedom and in achieving this programme no power on earth can stop us. Today when we are taking a decision regarding our flag we reiterate that if Pakistan or other nations have not understood us it is their fault and if they think that Sher-I-Kashmir is deliberately hesitating to implement each and every item of Naya Kashmir it is misunderstanding. We are determined to implement each and every item of Naya Kashmir, under the leadership of Sher-i-Kashmir (cheers), and no power on earth can stop us from doing so, it is our earnest desire to liberate those who were slaves for centuries so that no body should be oppressed henceforth This freedom shall not be only political, religious and social but it will be economic too and complete in every respect. Today while taking the decision regarding our flag, we once again want to declare to all the powers of the world. Pakistan and

eminent partisans of the Security Council, that we will forge our destiny ourselves according to the principle of the right of self-determination. They may discuss things and pass resolutions but our struggle will go ahead without any hesitation and fear and we are sure that under the leadership of Sher-i-Kashmir we will reach our destination.

Before concluding my speech I would respectfully request every citizen of the country, whether he is a Hindu, a Muslim or a Sikh, whether he belongs to Jammu, Ladakh , Kargil or Poonch or any other place of the State, that no power on earth shall dominate us. We are poor, we have no army and ammunition , and we have no treasuries, but we have many a good quality in us and thus no power on earth can deprive us of our freedom provided all of us, living in far-flung areas of Ladakh , Kargil, Jammu ,Doda. Muzaffarabad and Mirpur unites together with one heart and soul. Than this flag shall fly upto eternity . Under this flag we have always gained honour and success, though we were penniless and resource less. Our Leader was called a worst type of rebel and for raising voice in support of the oppressed a punishment of nine years imprisonment was inflicted on him. Our comrades were imprisoned in dirties possible jails. An ordinary soldier would hesitate to talk to us. At that time we unfurled this flag with the force of action, determination and honesty. The great kings who were called Siper-I-Saltnat-I-Englishia had to flee at least. What was the force that we possessed? It was honestly, action, determination and unity and we marched ahead. We cannot only set a golden example for India and Pakistan but we can by liberating the works and peasants from exploitation set an example for the world also. Provided we all Hindus, sikhs, Muslims of the far-flung areas of the State Jammu, Kashmir, Ladakh , Muzaffarabad and Mirpur units together under one flag with one heart and soul and march ahead towards our destination. Today lakhs of rupees are distributed to create hatred amongst us. The temptation of bribes is given in different ways to end our great struggle led by the National Conference. Ways and means are adopted to break down our movement. Measures are being adopted to mislead people, but I would request all of my brethren that a greedy person cannot do any good to his country, nation or organization. History can

produce hundreds of such example, which can make this fact clear that often self-seeking people have been offered bribes and given temptation to mislead people from the force of unity. But such people both who offered or accepted such bribes have been defeated and ruined. Today our nation and sense of patriotism makes only one demand that we should not enhance the difficulties of our leader but, as far as possible minimize them and, shaking of all the misunderstandings go ahead with the movement with unfaltering faith and honesty. Then only our flag with plough can fly in the heavens. We should think that Jammu is not for Jammu only. Kashmir is not for a Kashmiri only, and Ladakh is not for a Ladakhi only but a Balti from Kashmir is one with a backward peasant of Jammu and peasant from Kashmir is one with a backward peasant of Jammu and peasant from Kashmir is one with a backward peasant of Ladakh. When we have developed such a spirit in us we can take back every inch of our State from the enemy and can bring back lakhs of our brethren who live at present in the enemy occupied area, with ease and peace.

Sir, before concluding my speech I would pray that flag may always fly everywhere, it may fly continuously; every old man and every young man may fly it over the cottages of the poor and mansions of the rich: it may fly over schools, factories, Secretariat, roads, houses and places. Nay, it may fly over every inch of 84,000 square miles of area of the State of Jammu and Kashmir. (Cheers).

Syed Ibrahim Shah: Sir, I want to speak a few words in support of the resolution moved by Sheikh Sahib. Hon'ble Sheikh Sahib, while elucidating his resolution regarding the flag said that the red colour of the flag represented labourers and workers and, the symbol of plough on the flag represented peasants who are in a majority in the country. I am of the opinion that the red colour of the flag is the blood of those tyrants and corrupt employees and officials of the previous Government who the Sher-i-Kashmir Sheikh Mohd. Abdullah has exterminated by putting an end to their tyranny. When this flag will fly over Kargil and other Illaqs. I will try my level best to stop every employee, whether he is of the police Department or of any other department from being corrupt and thus I will end the corruption and oppression there. Beg Sahib said that such things would become

possible only when our hearts would work in unison, but I want to tell him that it is not within my power but is in the basis of equality our hearts can be one. In the end, I would pray that we all may unite and this flag may fly over Pakistan held territory of Kashmir also.

Hon'ble President:- Mr. Abdul Gani Goni

Mr. Abdul Gani Goni(Parliamentary Secretary); Sir, before I support the proposed motion I deem it fit to inform the House that since various nationalities, powers, States and Governments come into being all of them have represented their politics and ideologies by their own symbols and taking inspiration there from marched ahead. The history bears testimony to it. As they adopted their national symbols we also consider it proper to adopt a national symbol. Not going into the details of the symbols of the rest of the world I would draw your attention to the political symbol of India, which Mahatma Gandhi adopted. There was a spinning wheel on the flag. Apparently the symbol adopted by Mahatma Gandhi seems an ordinary one but when it was hoisted all the factories of the world came to a standstill. The result of hoisting of this flag was that the import of foreign cloth was stopped and consequently the factories of Lancashire and Manchester were hard hit. Besides this, three colors of the Indian flag represent different things. I am of the opinion that the first colour denotes sacrifice, white colour, peace and the red colour progress. And today "Ashoka Chakra" in the center of the flag reminds us of the golden age of King Ashoka. Mahatma Gandhi started the freedom movement and sacrificed his life for the same cause. After 1947 India was divided into two parts and was plunged into chaos and confusion. To establish peace and order, to change and put the economic structure of the country on the path of progress and to make India follow the new Programme, Mahatma Gandhi utilized the symbol of the flag. In the same manner Qaid-i-Azam also is giving a new symbol to our country, which shook the very foundations of the autocratic rule. He took one thing more into consideration that this flag should not be associated with any caste or creed. If you take the instance of the symbol of any country you will find that the colors of the flag have their special significance: the green colour is restricted to Islamic

countries, and like-wise yellow colour is associated with Sikhs and orange colour is owned by the Hindus. At the time of the division of India flags with different symbols were unfurled resulting in loot and arson in many parts of the country, but our Qaid-I-Azam adopted such a symbols for the four million people of the State that it extinguished the fire of communal hatred. The symbol of the plough on the flag is not an ordinary one. The Leader of the House and delivered an explanatory speech to which I cannot venture to add anything new. The significance of the plough to me is as Sardar Budh singh has said:

“All the mills rely on the plough”

That is to say that all the factories of the world rely on the plough. I would like to speak a few explanatory words regarding the red colour of the flag. This colour reminds us of those martyrs who sacrificed their lives for this cause (cheers). Or it remind of those labourers who cross Banihal with a load of one maund on their backs. Today is the occasion, which reminds us of Master Abdul Aziz, Maqbool Sherwani, Brigadier Rajinder Singh and Brigadier Usman.

Besides, there are three vertical and parallel strips on the flag, which I will compare with the colors of the Indian flag. One strip is the symbol of freedom of the country, which we achieved under the leadership of Sher-I-Kashmir; another strip symbolizes the extermination of communal hatred, which was imported from the Punjab, and the third strip represents the implementation of the Programme of “New Kashmir”. On this basis, I would like to say that this is the only flag in the whole world under which the old system has been put to an end and a new order of freedom has been established. This flag will be flown by the coming generations. This is a magnificent and a great flag bequeathed to us by our struggle for freedom. Supporting the resolution, I would conclude my speech with these words:-

You are the flag Kashmir’s progress;

You are the flag of hosts of workers;

Hon’ble President:- Hon’ble Bakshi Ghulam Mohd, will please speak now.

Hon'ble Bakshi Ghulam Mohammad:- Sir, allow me to speak a few words on this auspicious day. Today is the day of great importance in our national history. Today we see that dream being materialized which our leader Qaid-I-Azam Sher-I-Kashmir dreamt some twenty years back. Just up to this day it was simply a dream, but we were sure that a day will come, when a party which was called a rebellious party once and to which thousands of things were attributed, will come into power and fulfill the promises it has made to the nation. Out of these promises one is being fulfilled today. Sir, I am growing sentimental, I heard the speeches of my Hon'ble comrades and while listening to them the whole picture of the events from 1931 to the present day passed before my eyes. I remember the 13th of July, when bullets were showered. I remember the 21st of September 1933 and the years of 1934, 1935, 1936, 1938 and 1946 when thousands sacrificed their lives to carry forward the movement. I recollect all the oppressions and torture, which the nation suffered; and especially I remember the day when Qaid-I-Azam pledged to a dying martyr that he has done his duty and that they would shoulder the responsibility for marching onwards. Thanks to the Almighty that we have fulfilled our promise (Cheers). Thousands of efforts were made to annihilate the movement but it always developed and went forward. In 1947 the imperialist powers of the world conspired together and determined to do away with this movement" firstly by arranging invasion of Kashmir but our movement was based on honesty and sincerity and the nation not checked the enemies of the movement but carried the movement forward. I fully remember that during this invasion so many worthy sons of the soil sacrificed their lives. Amongst these the sacrifices of martyrs. Sherwani Sadhu Sing, Master Abdul Aziz, Brigadier Rajinder Singh, Captain Prem Paul Singh, Mr. Ismail and Mr. Zadu are before my eyes.

The colour of this flag is not an ordinary one but is dyed with the blood of these martyrs. I dare to say that whatever they did, it was for the freedom of the country and the nation. They performed their duty and passed away. Today it is our responsibility to give to the country a flag in their name dyed in their blood, as a symbol. This is a great and an auspicious thing. But when we feel joyous that a

day has come to adopt this flag of free Kashmir for the nation. We have to look to our responsibilities as well. It is our responsibility that we should never see the flag flown low but should always keep it flying very high and add to its grandeur and honour. To end our movement conspiracies are being hatched in every corner of the world. Imperialists even today are designing to destroy our movement. They have not been attracted by the beauty of Kashmir and by its green field and tulip gardens only but to put an end to our struggle, which has been going on for the last twenty years. Conspiracies are hatched in the big mansions of the world to divide it and to hold Zonal plebiscite. Efforts are being made to paint our movement as a communal one. We should keep in view all such things and we should realize our responsibility. With full determination we are giving this flag to the people of Jammu, Kashmir and Ladakh. This is the flag we are giving to the nation as a national trust and all of you, friends, are its trustees. Every responsibility lies on you. Thus when we give this flag to the nation we should realize our responsibilities also and then take on oath that even if the world join together, our movement will not be defeated and our flag will never be lowered. (Cheers).

Today this flag is not of any single individual but this is common flag of the whole country. I know it fully well that our Qaid-I-Azam has not or is not devoting only 24 hours a day to the cause of and freedom but has devoted every movement of his life to this cause.

Today Sheikh Mohammad Abdullah is not giving you this flag in the name of his person but as a trust. He is giving you this flag in the name of those oppressed and martyrs who were subjected to untold miseries. As for as the sacrifices that we made to flight the invasion of 22nd of October are concerned, the name of Brig, Usman is taken in this connection but I dare to say that thousand of others also were martyred besides Brig Usman. They too dies in the battlefield to save our and freedom. Today we must be able to realize the responsibilities which have devolved on us and we should promise that we will fight all the satanic powers of the world, not to speak of Pakistan alone. We maintain the glory of this flag at any cost.

Comrades, today is the day of rejoicing and history day as well. The peasant of this country will prosper, but besides. I want to state that there are dangers too. To give flag, to draw strips on it or to deliver speeches about it, is an easy task. The secret underlying it is the strength of our movement. It must be an article of faith with us to safeguard and defend the movement. It should be our duty to carry forward the movement for freedom. In every respect we must have faith in our Qaid-I-Azam. Unless we have blind faith in anything we cannot derive any pleasure by merely giving the flag to the world. Let us make a firm determination. With a sincere and responsible mind, and then we should make some claim. To save the honour of this flag all of us must be prepared to brave any lot like Brig. Rajinder Singh. We must be prepared to face bullets like Sherwani; we must be prepared to sacrifice every part our body like Master Abdul Aziz who held the flag in his hand and when his arm was cut he held it with his teeth and did not let it fall down; and only when his teeth were broken did the flag drop down; if any misfortune comes we shall not see our flag pulled down low, in this flag there is unity there is love and in it we have the message of brotherhood and peace for million people of Kashmir. This is the flag of the people living on both sides of the ceasefire line. As my comrade Beg Sahib has stated we will be successful only when flag will be flown on the other side of the cease-fire line: when this flag will fly on the lofty mountain of Gilgit, on the vast field of Mirpur and poonch and on the mansions of Bimber. It is only then that we will think we have been successful in our mission. We fought back the invasion of 22nd October and if today the same determination of hoisting at Gilgit. Mirpur and Bimber is demonstrated, I am sure, that by the grace of God this flag will fly over those peaks. But this is possible only when we possess determination, brotherhood and unity.

Our State comprises three geographical units i.e., Jammu, Kashmir and Ladakh. These are three parts of one body. If Kashmir is great land Jammu too has its grandeur. And if Leh holds its head high, both Kashmir and Jammu should feel proud of it. God forbid, if misfortune befalls any of the three, no part

will remain unaffected. All these units are the parts of a body. Look to me, I have received an ordinary hurt and I am unable to walk. It is not correct if Jammu people think that they are represented by one stripe; if Mr. M.A. Beg and Bakshi Ghulam Mohammad think that they are represented by another stripe; and if Mr. Koshak Bakula and Syed Ibrahim Shah think in the same fashion. We should know that all the three strips one united country. Unless people take these stripes as one whole, the grandeur of the flag will get impaired. This is the flag for the whole State i.e. Leh, Zaskar, Jammu and Kashmir. This will fly over the major portion of the country, but our ambition and that of Qaid-I-Azam should be that it should fly in every corner of the pre-raid Kashmir. The people living on the other side of the ceasefire line should also be benefited. Only then shall I feel that we have succeeded in our mission. There are dangers and we should be prepared to face these dangers. We should face them not by mere talk but by action. When we make such a determination, I will consider this day as a day of rejoicing, day of great Id. I tell you should make people understand its significance and convert them to your point of view.

If any danger crops up it is only we, the 75 members of this House who will have to fight it, but we will have four million people also at our back. With these words, Sir, I support the resolution.

Mr. Krishan Dev Seth:

Sir,

“Red flag, the greatness of the worker and of the peasant. It is the greatness of the Man himself. Red revolution is not a conspiracy of rebellion. For the redness of the martyrs is a title by itself.”

In reality the flag of any nation is the symbol of the class that is in power in the country and it represents the system established in the country. Today when the flag of peasants and workers is before us, it throws right on the ideal, which was before our people twenty years back. It was the ideal of uprooting the exploitation and not that the right of rule should vest in some particular persons. When we unfurl this flag the picture that obtained twenty years before comes before us, when blood was sucked from the peasant and the people in power

would use it for their self-gratification, and would construct mansions. Undoubtedly when we unfurl this flag we say to the world that exploitation of worker and peasant has ended. We make our ideals clear to the world through it may look at our ideal from a different angle. Our idea is quite clear. We want to free the worker and peasant from exploitation and thus our flag denotes the unity of workers and peasants. Sir, we have adopted this flag only taking these things into consideration. The hatred among different nations of the world is the basis of war and that is why a nation rules over another nation and usurps her rights. Prior to this, backward nationalities were suppressed in the State. Today the three vertical and parallel stripes on the flag denote that the three communities of the State are equal and no one has the right to dominate the other. Sir, the motion regarding adoption of the flag has been put before the House officially, but before this, it alone was a lace to aspirations. To keep this flag up our young man had to go into jails; they had to be the target of bullets; they had to bear flogging and after all because of this flag we fought communal hatred in the whole India (cheers). When in India communal hatred was in full swing and all the great leaders yielded to Muslim Communalism, we fought the evil (cheers). We fought the evil (cheers). We fought the evil when autocracy was in power when in India the right of self-determination was overlooked, and when leaders wanted to live under the autocratic rule of **Nawabs, Rajas and Maharajas** of different States we raised the slogan of "Quit Kashmir" movement demanding that States people should get the right to self-determination. We also demanded that the right of accession should not be granted to any other element other than the people of the State. This right cannot be given to India, Pakistan or America but it can only be granted to four million people of Kashmir. (Cheers). In 1947, Pakistan at the instigation of the Anglo-American tried to trample the people of the State and invaded Kashmir. At that time too an attempt was made to pull down our flag but the sacrifices of Martyrs like Sherwani, Master Abdul Aziz and Brigadier Rajinder Singh saved the country and preserved the honour of the flag. Today when power is in our hands we have not shirked any sacrifices. Even today reactionary elements are there who try to pull down this flag and to face

such elements sacrifices are even now required. It will be an injustice not to make mention of them. Only some days back Thakur Inder Singh breathed his last while fighting against the Jagirdar class. Even today efforts are being made by Jagirdars and capitalists to pull down this flag. Not only in Pakistan but in India also such reactionary forces are present who want to pull down our flag. The Anglo-American block is also opposed to our flag so that they may be able to carry out their imperialistic designs and here too their agents are trying to create trouble and pull down our flag. I remember a verse by Dr. Iqbal, which reads:

“Race, nationality, church, kingdom, civilization and colour. Capitalism has well selected its dupes”.

Even today efforts are being made to disrupt our movement in the same way as described in the above verse. Efforts are being made to pull down this red flag, with which the hopes of all the workers of the world are associated so that their designs should succeed. At this stage we have to think and face their conspiracies so that this flag should keep flying over the Himalayan peaks always.

Hon’ble President:- Mr. Kaushak Bakula:

Mr. Kaushak Bakula:

Note:- Mr. Kaushak Bakula stood up and delivered his speech in Ladakhi language.

Mr. Ghulam Rasool Renzu: Sir, the Urdu translation of the speech delivered by Mr. Kaushak Bakula should be read out to the House.

Note: the Urdu translation of the speech delivered by Mr. Kaushak Bakula in Ladakhi language was read by the Secretary, Constituent Assembly with the permission of the House, and the following is the English version of that speech.

Sir, I too want to speak a few words about the resolution moved by our Prime Minister regarding the national flag. After manifold sacrifices and a long struggle the picture of the freedom we have achieved through our leaders is before us. All our aspirations and desires are symbolized by this flag. The inclusion of plough in the flag and its red background represent our earnest desire for prosperity and happiness of the Major portion of our population which

consists of peasants and workers. As there are three geographical and culture units of Jammu, Kashmir and Ladakh in our country, these have been shown, by three equal stripes on the flag. All the three stripes have been displayed against the red background, which is the symbol of unity. We have achieved freedom after great sacrifices and now it is our duty to sacrifice our lives to defend it, and to make progress in every walk of life.

Today is an auspicious day when we are adopting the flag of our country permanently. Our foremost duty is that we should never see this magnificent flag lowered. With these words I support the resolution.

Hon'ble President: Mahasha Nahar Singh:

Mahasha Nahar Singh: Sir, the flag which is before the House has three stripes on it, meaning thereby that the State has three parts and this flag represents them. I would say that there are three classes in the State that is the upper class, the middle class and the lower class whom this flag brings on the same level (Cheers). The sacrifice which our National Conference has undergone has borne fruit today in the shape of this flag. When I shall see this flag fluttering over the house tops of peasants and workers in different villages, my joy will know no bounds because too am a peasant. Witnessing the colour of this flag every peasant and workers feels happy. Peasants understand that upto this day their earnings were extorted by Jagirdars and capitalists and he had to go to them with the grievances for their livelihood, but now when this flag has given him freedom he is prosperous and understand that he is deriving the full benefit of this labour. Those who have constructed buildings, established mills and factories should also feel happy, as in the absence of this flag there would have been no peasants and all of them would have starved to death. If a peasant leaves his job the people living in palaces would die. The flags of different countries of the world may be source of fear to the people, but ours is a flag with plough and the whole world will be pleased to see it. Time is fast approaching when every country shall adopt this flag. This is a flag which the world is thinking to adopt. Other countries say if they knew of such a flag earlier which the State of Jammu and Kashmir is adopting i.e. flag has a very great

significance. This flag must have caused alarm to Pakistan because if such a flag unfurls over their land, their Jagirdari will end. Whenever this flag is unfurled it will be a threat to jagirdars and capitalists there. In other countries there do not exist three classes but only two classes; one is the richest and another is very poor. In India too some provinces like United Provinces and Madras have only two classes.

Sir, there are only two classes of people in Madras; rich and poor but it is unfortunate on the part of our State that there we have three classes rich, middle class and poor and to bring them on the same level, we have adopted this flag. Unless we own this flag and consider it as the source of our existence we cannot go ahead. Today Jagirdars and capitalists also say that if they do not adopt this flag they would die of hunger. The working class has been craving for the time when they could raise their own flag high. Today our State can declare that there is no ground for communalism. Had we adopted a flag with a crescent. People would have dubbed it as a symbol of Muslims; and if we have adopted a flag with Trishol people would have called it as a symbol of Hindu communalism; and if we had adopted a flag with wheel and spearhead people would have attributed it to the Sikh faith. But you should know it for certain that this flag is a common flag of all. As Sardar Budh Singh Ji has said "Everything depends on our plough". We have under this influence, adopted a flag with plough because all production depend on plough. Had there been no plough no business. Whatsoever was possible? If a farmer does not tend cows we would not get milk of ghee. In short a peasant is the real servant of humanity and it is because of him that the world is existence. Early in the morning when we pray to God we should pray that this flag may fly over every inch of 84000 square miles of the State. I want to add to what Hon'ble Revenue Minister has said in this behalf that this flag should fly not only on every corner of our country but this flag should also be seen in the pocket of the common man so that when he gets up in the morning he salutes this flag, for this flag is the source of his livelihood. We should consider that this flag comes next to God. Some nations of this world claim to be great as they possess many factories and other claim greatness on the strength of possessing greater

number of machines but the people of this country should remember that we have to prove that plough is the greatest wealth of the world and we should not usurp other people's means of livelihood. As long as we did not consider this flag our wealth and our deity, we suffered oppression and exploitation. When we understood that the basic of our progress is a peasant everyone whether Jagirdar, capitalist, peasant or worker considered it proper to adopt this flag. They recognize that if they do not adopt it they may have to face great hardships. In short, this flag is the source of our livelihood and with these words I support the resolution and pray to God that this flag may fly over the whole world.

Sardar Kulbir Singh: - sir, the flag of our country about which the present resolution has been moved in the House has a very great importance. A flag is not merely a piece of cloth but it is a symbol of history, culture and civilization, desires and aspirations of the country. Similarly, when we cast a glance on our proposed symbol, we with pleasure, find ourselves leading towards that stage whereon peoples of others nations while proposing symbols for their countries, rightly utilize their right of self-determination. While going through the history of various countries we see that those countries have undergone many upheavals and while passing through the critical era of the history they proposed symbols for themselves. The history of the United State of America and that of Soviet Russia are manifested by their symbols. In them we find there past history. There are stars and stripes the flag of the United States of America which denotes the unity of different States of the country and reminds us of their past history, Similarly, the Union jack of United Kingdom denotes the unity of England, Scotland and Ireland. The flag of Soviet Russia, the hope of working people, bears the symbol of hammer and sickle that denote their struggle and tendencies. Likewise the whole picture of the history comes before our eyes, while we have a look at our flag envisage the stages wherefrom our movements has passed after the lapse of this historical period we after all were able to propose our symbol with more satisfaction because our symbol based on unflattering truth, and this flag will always lead us. We have seen that in Asia for centuries, flag in which the religious sentiment was predominant were prevalent

in every country. Every rule used to adopt the symbol of his religion. But as soon as time passed on people's mind changed and the world was fed up with religion. We saw in 1947 in India and Pakistan, both Hindus and Muslims lost faith in religion and both turned beasts holding these flags high. A beastly atmosphere prevailed all over, which the world will remember as barbaric age. But we feel proud in saying that under this flag we safeguarded each other while our neighboring countries were drowned deep in a sea of arson and blood (Cheers) and now when we proposing a symbol for our country we have no consideration of caste and creed; no consideration of Rajas or Maharajas: no remembrance of any dynasty; there is only one consideration of a symbol which is a plough. This is a symbol, which reminds us of a toiling man. Work and labour is essential for progress. Stagnation is deterioration, and to work regularly is life. On the flag the symbol of plough is in such a fashion as if it is on work. The man who is closely attached with the Mother Earth and who tills it knows it for certain that it is the peasant only who support whole world. Out of various symbols of the world plough is the only one which denotes that the peasant is the source of sustenance for the world and to safeguard it is the prior need of the hour. The progressive people of our country who want end the political, economic and religious exploitation cannot be stopped from going ahead by any force whenever it may be. The exploiting elements stand in the path of progress in the guise of representing culture and civilization.

I want to make it clear to the people of my country that the three stripes on the flag denote that we all countrymen will live as one family and our civilization and culture will flourish freely. Besides I agree with what Hon'ble M.A.Beg has said that our voice of unity should reach to the people living on the other side of the ceasefire line. Today we want that our voice should go deep into their hearts. I have come to this House from those people belong to the other side of the ceasefire line (with the same sincerity of heart). They want that this ceasefire line should end so as to enable them to return to their own mother-land, to embrace their departed ones, to live a happy life and to see their mother-land once again. In 1947-48 the Indian leaders were generally saying that they will free every inch

of the country but after the establishment of cease-fire line our troubles increased. You will know by the voice of this House that the people of this country are not negligent and they know that these are the designs for the division of the country. We firmly believe that our leaders will hold this flag firmly and no power on earth can stop us to reunite our country. We are the inhabitants of one country and always be the same and our country will get reunited. With these words I support the resolution.

Abdul Gani Trali:- Mr. president, I want to speak a few words in support of the motion moved by the leader of the House in connection with the adoption of the National flag. The fact that our country has undergone unparalleled sacrifices for this flag that our young men and women sacrificed their lives for the glory and honour of this flag, is not unknown to anyone. In their speeches most of the Hon'ble members have alluded to the above-mentioned fact. Some years back, when we used to hoist this flag in some village or a town the authorities and their henchmen would feel disturbed because they knew that this very flag will one day sound a death knell for them. Consequently they never allowed us to hoist this flag. If we hoist the flag during the night they would remove it during the day. Hundreds of examples can be cited to prove this fact. They knew that the time was coming when this flag would become the State Flag and will guide all the countries. The reactionary elements of our country knew that the time was coming when this very flag would raise the status of the oppressed toilers of Jammu, Kashmir and Kargil. This flag was rising higher to wipe out the autocracy and the chakdari system. Those people knew these things quite well and it was, therefore, that they opposed it. They also knew that this very flag would emancipate of the oppressed people of this land. Thus flag used to be hoisted for the emancipation of the poor. Because the majority of the people of this land accepted this flag as their own, the vested interests and the decrepit system of that time were not able to disrespect it. This flag used to be hoisted magnificently till it became the flag of the State (cheers). In our programme of "New Kashmir" the importance of the flag is explained in Article I of the said programme contains:- "A single State citizenship is hereby established for all

citizens of Jammu, Kashmir, Ladakh and the Frontier Regions, including the Poonch and Chenani illaqs.”

“The equality of the rights of all citizens, irrespective of their nationality, religion, race or birth, in all spheres of national life economic, political, cultural and social, shall be an irrevocable law.”

We find today that the flag does not bear the symbol of any mosque, temple, Gurdwaras or a church. The flags that were used to be hoisted till to day were either of some dynasty or an individual. But as Hon’ble Sardar Sahib has said our flag is a unique as the flag bears no religious symbol on it. This is the only symbol of leadership. The red backgrounds represent the workers and the office employees. The plough represents the peasantry. It is, therefore, a magnificent flag and will lead the people of this land to the summit of progress. This flag was adopted by the National Conference. Today it has become a State flag and will fly over the Ladakh, Gilgit, Jammu and Poonch. Besides, it will also over the enemy held territory. The time is fast coming when the people of this land will achieve complete freedom under this banner.

With these words I support the resolution

Mr. Bhagat Ram Sharma:- Mr. President, Today , through this resolution, we are adopting a State flag for our country. Sir, as the face occupies the most important’ place in the body, similarly, the flag also has an important place for a country. As the saying goes that face is the index of mind, similarly, the flag is the index of a country. The flag is to be protected with the same intensity of zeal and alertness we protect the face. Previously also we had a flag. The flag did not bear any symbol but had only two colours. The colours signified a definite Programme and objective. These two colour represented the two classes of our State. One of the classes constituted a fraction of our population but this class welded authority. The members of this class had monopolized the whole socioeconomic life of the State i.e. some were Tazmi sardar, Chakdars some Jagirdars and some capitalists. On the other side there was a large majority of the people who were condemned to a life of obedience and loyalty. In other words there existed these tow classes in that system. The former class was not

only patronized by a few people but the imperialist powers also lent support to them. The poor people of our land were fed up with these handfuls of parasites their exploiters and they wanted to get rid of them. For their liberation the toilers of our land have organized themselves and under the leadership of their leaders they want to do away with the distinction. In this connection the toilers of this land derive support from the toilers of the world.

The flag which we are adopting for the country does not signify any new idea. On the contrary, it signifies our urge for establishing equality among men. The symbol of the flag signifies equality based on labour. By abolishing landlordism and usury we have gone a step further in this direction through this flag. We have made it known to the world what our intentions are, and the future programme we have chalked out for ourselves is also conveyed through this flag. We do not to achieve equality by force. We want that every one should enjoy the fruits of his labour. This fact is explained by one word i.e. we have to do away with the class struggle and establish equality. With these words I support the resolution.

Sardar Harbans Singh Azad:- Sir, I feel that every aspect of flag has been dealt with in the speeches delivered on this subject. Being an active worker in the liberation movement for the last thirteen years I consider it my duty to speak something on this historic occasion. I feel that the freedom movement, which we had started, has achieved much and has passed through many stages. Today we are leading towards our destination. Today's event will be painted in bold letters in the history of Kashmir. A flag of a nation or a country is not a piece of cloth but with it are associated lofty ideals of the country. The flag represents the basis on which our movement stands and all our hopes are connected with the flag, which we are adopting today. We shall have to sacrifice even our precious lives to maintain the dignity and glory of this flag.

The eighty per cent population of the country comprises peasantry, and our duty is to put this major portion of population on the path of progress. We should strengthen the backbone (peasantry) of the country and end the poverty. The world is dependent on the toil of the peasants. If something comes in the

way of the plough the result will be that factories will stop to function. I mean to say that the plough is the source of our livelihood and the world depends on it. If a peasant does not grow food grains or if food is not produced the sovereignty of the people will merely remain a theory. No machinery can function; no labourer can work with the hammer; no writer or a clerk can use his pen; and no artist can utilize his bursh in the absence of food. Keeping this great importance in view we have adopted such a flag in which plough has been given a dignified place. Keeping in view our ideals it is our duty to make the peasantry prosperous. A great writer of China Mr. Lin-yu-Tong has written in a chapter “ On Hairing a Stomach” of this book. (The importance of living) that “food” has such a great importance that if the lunch hour comes in between the sitting of the Sovereignty will come next.”

Hon’ble M.A.Beg:- Sir, this seems a speech on Grow More Food Campaign.

Sardar Harbans Singh Azad:- Rather on the sovereignty of stomach. Sir, today we have done a great duty. So far as the colour of the flag is concerned, it strengthens our ideal of secularism. Red colour is connected with a worker, whether he is from India, China, Russia or America. He may be of any country the blood of every worker is red. Man may bear relation, he may be Hindu, Muslim, Christian, Sikh or Buddhist, but the humanity is one and indivisible. It is based on kindness, sympathy and love and not appearance, features, dress or different ways of worship. The blood of man is red which proves that humanity is one. In our state whether a person lives in Ladakh, in Jammu or in Kashmir, whether the speaks Ladakhi, Dogri, Punjabi or Kashmiri the blood of all these people is red.

The three units of the State are represented by these stripes. In the end, I shall request you that after adopting the flag our responsibility will increase. To maintain the dignity of the red flag. We may to offer fresh blood. We should be prepared to defend our flag with the same unity with which we are adopting it today. Under this flag Hindus, Muslims and Sikhs gave blood for their country. Under this flag in 1946. Hindus, Muslims and Sikhs became martyrs while safeguarding their country. I hope in the future too every inhabitant of the State

under this flag will not hesitate to undergo any sacrifice for the sake of the country. With these words I support the resolution.

Sh. Ishra Devi Maini:- Hon'ble President, I too wish to speak a few words before the House regarding the resolution which has been moved today, I have fully understood the significance of the flag. The colour of the flag is red and just now a brother of mine has stated that people may live anywhere but their blood is red and in true sense of the word it represent peasants and workers. The second noteworthy thing is that the martyrs are watching our actions and they feel greatly pleased. Today while remembering them I want to send them only this message that they should be in peace (Cheers).

Another thing is the symbol of white plough on the flag which some great leader has proposed after due consideration. The heart of a peasant is white and not black. He toils day and night, produces food grain and feeds the world. We should also copy him and clear our minds. Then alone can the darkness of our minds disappear, and we can be true to our ideal.

The three stripes denote Hindu, Muslim and Sikh unity, because three types of people live in the State of Jammu and Kashmir. There are Frontiers with the State of Jammu and Kashmir. We have acceded to India on three sides I invite your attention to the fact, which we could go ahead by the grace of martyrs. We achieved freedom due to the sacrifices of Satyagrahis, our dear Babu Ji has started the Satyagrah, Sher-i-Kashmir who follows the foot prints of Mahatma Gandhi is achieving the freedom. The question is, what should we do to maintain our freedom. We should end the sufferings of our poor brethren. We should not take our meals seven times a day but we should eat only twice and the rest we should give over to poor people so that they also may be able to make both ends meet. I will tell all those sisters, whose husbands suffered martyrdom, that they along with their children will be looked after properly. To march forward we have to assemble under this flag. With these words I support the resolution.

Moulvi Mohammad Anwar Shah Masudi:- Sir, today a resolution has been moved for adopting a symbol for this country. Every country has its own flag. In Kashmir we had also a flag but the symbol of that flag denoted autocracy. There

is no doubt that the monarchic rule commands a great deal of loyalty to the person of the ruler but the prospects for progress of the common people are very limited. On the country, the proposed flag is a democratic one under which every man, as far as possible, has the equal opportunities of progress without any distinction of family, religion, caste and creed. Our movement started in 1931 and was no doubt started by one community at the outset, but as long as right politics is concerned an urge was felt that the movement should be conducted on democratic lines and when the need of a new symbol was felt, we proposed this very flag. I will not go into details of the philosophy and the background of this symbol as it has been fully explained, but all I wish to say is that this flag has put an end to autocracy. The old flag represented the sentiment of loyalty alone and there were no possibilities of serving the nation through it. This is a flag under which every man shall have equal opportunities for progress. This is a flag by holding which we can march even beyond the area of 84 thousand square miles, which comprise our State. It is a pleasure that this flag is being granted such a status the attainment whereof infuses in the minds of the people a spirit of genuine sacrifice for the cause of the country. I want to speak only this much before the House and I pray that:-

Let the flag of Kashmir fly:

The flag of a child, young and old:

Let it fly where and forever:

Fly continuously:

Mr. Hem Raj Jandiyal:- Sir, the symbol of the greatness of a country lies in the flag. Every country and nation undergoes sacrifices to keep its flag and never see their flag lowered. History bears testimony to the fact as to how nations and countries kept their flag high up. Every country has given a different colour to its flag. Some of them have adopted their flags on religious basis. Generally every country has adopted its flag on the basis of its details, but the flag, which is being adopted for our State, was specifically designed to represent our people's movement. It does not bear any relation to any caste or creed but represents the 97 p.c. of population, which comprises the peasantry. With the advance of

national movement the flag plough gained in prestige and it was blessed with such aspirations, which developed our movement. As this was democratic movement as a major portion of the population comprised workers and peasantry this symbol was adopted. The white colour in the flag represents simplicity and honesty and this can raise the status of our country. The majority of the population consists of workers and peasants on whose progress depends the progress and prosperity of our country.

This flag led us when our movement faced several upheavals. If you look back at the events of the last few years you will understand that the people who fought for freedom have proved that this is people's movement. For example, when in Ramnagar a political prison was conducted by the Pak Ministry and the political prisoners of "Quit Kashmir" movement were sent there, created a sense of struggle in the people for the achievement of their rights. When people's Government came into power peasants were given their rights. You know how badly peasants were treated and how they were evicted. Under this flag their morale rose. Today those tillers who have been evicted and have been rendered homeless consider this flag as their hope, which would get them back the lands from which they have been evicted. The people of Chenani Jagir under this flag launched a struggle against the Jagirdars while they had no money or help at their back. Under this flag they rose with firm determination without caring for wind or weather and assembled under a people (Bunyan) tree on the bank of Tawi. The crusaders fought for their right under this flag and ultimately achieved success. Now we are adopting this flag permanently for the State. There is the addition of only three stripes, which denote the geographical units of Jammu, Kashmir and the Frontier area. All the three units have equal status and are equal partners in the construction of the State. These three equal symbols denote clearly that they are equal and no unit has any superiority over the other. There should be no possibility of creating any apprehension that one part is superior to the other. Today we are adopting this people's flag and I pray that this flag may fly higher and higher.

Mr. Ghulam Rasool Kraipak:- Sir,, I want to make a few submissions about the resolution before the House today. After looking at the flag attentively it will be found that it is sewn at one end, a hollow space has been left for the pole. The cloth (of the flag) is a rectangular in shape, which shows that this country (State) is more in length than in breadth. The red background recalls that the people were subjected to loot and plunder and severe atrocities. The red colour represents the bloody background of the past. The white “Plough” signifies a bright future. The three stripes represent three parts of the country i.e. Jammu, Kashmir and Frontier province I would submit that we could adopt for a symbol a weighing scale or a pond where a lion and a goat would drink water with their heads close together but it was done because it is the majority that counts. Here we have the majority of peasantry and the working class. It is given in the Quran as to whom the land belongs. Land is God’s property and is bestowed unto those of his creatures who are noble. Virtuous indeed are those who work for the good of others. Take a peasant for example. He is the backbone of our economic structure, as he procures food for others. Hence we have adopted the emblem of “Plough” for our national flag. No other better “flag” can be suggested. With these words I support the resolution.

Hon’ble president: - I have received a notice of an amendment from Mr. Mir Qasim

Mr. Mir Qasim:- Sir, I propose to move the following amendment.

“That the words “ National occurring before the word “Flag” In the first line of the resolution be deleted”

My submission is that the great historical importance attached to the change, from the old order to the new one, needs no elucidation. This flag represents the unity of the peasantry and the working class. The flag can help in scientifically analyzing the history of the National Movement and its various stages. The unity of the peasantry and the working class, which is growing and strengthening, every day is a best lesson for us. Besides many other things, which the flag symbolizes, need to comment. Because this flag was first prepared by the National Conference, it runs by the name of national flag. The

members of the very same National Conference who are now at the helm of affairs now present it as the State-Flag. Therefore, my submission is that the word "National" occurring before the word "Flag" be deleted.

Sardar Harbans Singh Azad:- Sir, I second the amendment

Hon'ble Prime Minister:- Sir, I accept this amendment.

Hon'ble President: Before putting this question to the vote of the House, would the Hon'ble mover of the main resolution like to say anything?

Hon'ble Sheikh Mohammad Abdullah:- Sir, the resolution I have moved in the House has been supported from different corners of the House. Hon'ble Members of the House threw sufficient light on those aims and objects, which are connected with the flag. I do not want to prolong the discussion, but only like to reiterate the fact that the biggest aim of this national symbol is national unity and brotherhood, which we have achieved under this flag. The sense of national unity and brotherhood prevalent in the State is the distinguishing feature of the flag. The freedom movement of the country sponsored by the people developed due to sentiments of national unity and brotherhood. People of Kashmir did not take rest until they had put the freedom movement on the path of progress and achieved the same. Some of my respected friends have in their speeches observed that the main thing, which has been kept in view, is that this flag does not represent any particular class of country but it represents the four million people of Kashmir. The four million people of the state mostly comprise peasants and workers and the symbol of plough in the flag is the symbol of workers and peasants.

Sir, the House has thrown ample light on the resolution and now I do not like to take more time of the House, I would, therefore, request that the resolution be put to vote now.

Hon'ble President: The question before the House is: -

"That the flag of the Jammu and Kashmir State shall be rectangular in shape and red in colour with three white, equidistant, vertical stripes of equal

width next to the staff and a white plough in the middle with its handle facing the stripes.

The ratio of width to the length of the flag shall be 2:3 inches.

Note: - The motion was adopted prolonged Cheers.

Hon'ble President: I think it proper that the Hon'ble Members **should rise for a movement to honour the flag.**

Note: - The Hon'ble Members accordingly rose for a minute or so.

Hon'ble President: I would request Hon'ble Sheikh Mohd. Akbar to recite the poem of the flag to the House. If Hon'ble Members would consider it proper to stand by way of respect they can do so.

Note: The Hon'ble Members kept standing till Sheikh Mohd. Akbar had furnished his poem.

Sheikh Mohammad Akbar:

A NATIONAL SONG*

**Let this Flag of Kashmir be unfurled.
The Flag of our People.
Of young and old alike.
Of the strong and the nonviolent
And of our poor peasants.
Whoever plough the land.**

*English translation of the song adopted from Radio Kashmir Annual 1951)

**Let this Flag be always flying
Over our valleys and our lakes
Till the day of Judgment
Let it raise its proud head.**

**May this flag forever fly?
Over the meadows and the mountain toys**

Over pastures green and rushing streams.

And limitless expanse of land,
May it eve fly over the House of the poor
And adorn the mansions of the rich
Let this flag be ever flying
In the four corners of this land,

Till the day of Judgment
Let this our symbol be
This red flag of Kashmir,
This beloved flag of ours
And of our peasants too,
Which brings succour to the poor
And the downtrodden,
And gladdens every heart.

May it fly forever?
In every nook and comer,
Till the day of judgment,
May I behold Thee.

Hon'ble President:- Today's meeting is declared closed. We will meet again on Tuesday the 10th of June, 1952 at Eleven of the clock in this House.

JAMMU AND KASHMIR COMMSSTITUENT ASSEMBLY
3RD SESSION

June 1952

10th June, 1952

Tuesday the 28th Jeth 2009.

The Constituent Assembly met in the Assembly Chamber,
Rajrarah palace, Srinagar, at Eleven of the Clock.

Mr. President (Hon'ble Mr. G.M.Sadiq), B.A L.L.B in the Chair.

Mr. Presidednt (hon'ble Mr. G.M. Sadiq): Hon'ble Mr. M.A.Beg.

Hon'ble Mr. M.A.Beg: Mr. president Sir, this house in its last Autumn Session set up two Committees for purposes of determining what would be the basic principles of our future constitution and what rights would from the fundamental rights in the future constitution of this State. These matters allied with other matters had to be gone through by these two committees. After the finding of these committees are recorded by this House and necessary directives given, if it so chooses, the whole material will have to go back to the Drafting Committee for purposes of drafting the constitution for this State. Through an oversight, we have not moved the resolution in the House so far for setting up of a committee of that character which will after receiving, the decisions of this House on the reports of this Basic Principles Committee and Fundamental Rights Committee, give them legal shape and perhaps fill up gaps here and there and also put in sympatric consequential provisions. It is, therefore, necessary for the drafting of constitution that a committee of that character be set up, I have, therefore, reasons to request this House to accord sanction to the Resolution that I am moving:

“This Assembly resolves that a Drafting Committee be set up consisting of the mover as Chairman and the following members:

1. Mr. Girdhari Lal Dogra.
2. Mr. D.P.Dhar.
3. Mr. Mir Qasim and
4. Mr. Harbash Singh Azad.

To prepare a Draft Constitution for the State of Jammu and Kashmir, in accordance with the directive given by this assembly from time to time in the form of its Resolutions or otherwise and on the basis if the decision taken by this House on the recommendations of the Basic Principle Committee and Advisory Committee on Fundamental Rights and Citizenship.

2. The Committee may co-opt any expert to render such assistance as may be required.
3. The presence of at least three members of the Committee (including the chairman) shall constitute the quorum.
4. Mr. Mir Qasim shall function as the Secretary of the Committee.

I have already explained the purpose for setting up of this Committee. I need hardly impress upon the House the urgency of setting up this Committee immediately and to start its work that is waiting. If we do not set up this committee I am afraid it will be difficult to frame and present the constitution in time before the House. With these words. I request the House to accept the resolution that I have moved.

Hon’ble Mubarik Shah: Sir, I second the resolution.

Hon’ble President: Now the question is that the resolution presented by Mr. M.A.Beg be passed.

☛ **The Resolution was passed.**

Hon’ble President: Next item. Hon’ble Sheikh Mohd Abdullah.

Hon’ble Sheikh Mohd Abdullah: Mr. President, Sir I present the interim report of the Basic principles Committee and move that the same be taken into consideration.

(Copy of the Basic Principle Committee report is enclosed at the end.)

Hon'ble Sheikh Mohd. Abdullah continued.....Sir, I bet to leave to cast a glimpse of the background before the House, against which the report containing the recommendations, I Just read out before this august House, was drawn up by the Hon'ble Members of the Basic principles Committee

Sir, man as is well known has since his origin been moved by an urge for freedom .The set idea that sovereignty rests with the people and not with an individual dominated his consciousness from the time he gradually abandoned his insularity in favour of a gregarious life, When in order to promote his existence, man took to corporate life, he necessity of the fittest possible person to be the leader. The various tribes and cleans, into which man kind was divided, endeavored, each in its own place to place at their head the fittest possible and the most capable person. In doing so, they were guided by the feeling that the appointment of the leader should be made by taking into account the collective will of all adult men and women. In other words, the people were to be considered sovereign. They followed this principle consistently and it become the pivot round which centered the activities of all the tribes, Side by side with this, there grew a feeling in each tribes and clan that apart from corporate life which had its own advantages, there was an extraordinary agency which could reform their life and fulfill all their aspirations and desires. As this feeling gained ground, it found expression in each tribe and clean setting before it an idol for worship and making offerings to win its favour, In this state of affairs, sprang up a group of priests and when any of these found itself confronted with insurmountable difficulties, it would at once turn to its chosen idol of worship and make offerings in the hope that its difficulties will get resolved. It was in this way that the two institutions one of the leader and other of the priest, came into existence. It was thus that these tribes and clans, each in its own place, progressed in the race of existence until a new idea struck their imagination. It was the desire for expansion. Each tribe aspired to extend itself and in the struggle, which ensued, one that was strong with powerful leadership began to gain the upper hand and

the weaker one went under. Thus for the first time in the life of man, human blood was shed for the fulfillment of material wants. Gradually with further extension in this line of action when some groups gained momentum the worker groups were brought under the way of the stronger. The idea of monarchy, thus struck his imagination. The powerful leader selected for himself the title of a 'King' and it was in this way that the foundation of Kingship was laid. So two institutions one of the Kingship and the other of the priesthood came into being. The two institutions joined hands and began to domineer over humanity and exploited the labour and toil of the people for the sake of their luxury. Both these institutions were indeed of each other and the one assisted the other. The King would turn to clearly when the former found himself face to face with a difficulty which he found himself unable to cope with or when distressed with his oppressions, the people would demand his abolition in order to put into practice their right of self determination and the principle that sovereignty resides in the people. The clergy would at once come of his succor as they presented to tenet of "Divine Right of Kings". Before the world, thus deceiving the people into believing that King is the Shadow of God and the man who revolts against or refuses to accept authority will neither succeed in this world nor hereafter. The clergy got the betterment of human weakness and filled the hearts of the people with superstitions. It was thus thrown into an abyss of tribulations and began to live an acute poverty. When this state of affairs reached its climax, there sprang up thinkers who concentrated their thought and reason to find out the real cause of human suffering. Thinkers came on the scene to prevent it. The first of these was Martin Luther who while endeavoring to warn the people of the deceit being practiced by the clergy raised the banner of revolt against them and : leveled accusations at them. While advancing ahead. Martin Luther could not resist the clergy due to a vast influence exercised by the Katter. He had to make his first sacrifices to prove that sovereignty rested with the people and not with an individual. Nevertheless, the king and the clergy continued to subject the people to oppression and privations. Luther was followed by Galileo, a great scientist, who wished to place this theory before the world on a scientific basis. The clergy

and the king jointly opposed it and made an assault on Galileo, who had to sacrifice his life for the same. Many such thinkers, followed one after another, and at last, a thinker named Hobbes came forward with a new theory called the doctrine of "Social Contract". While propagating his theory, he held that the king was not the image of God but was appointed in accordance with the "Collective will of the people". He can remain as king as long as people wish him and can be removed when the people's collective will is not with him. This made it manifest to the world that sovereignty resided in the people and not in an individual and that the king can be maintained only when he is supported by the collective will of the people, he cannot remain as king. In order to propagate his theory, there came thinkers like Locke and Rousseau. It was France, which was first of all influenced by this theory, which gave birth to the French Revolution, which in turn resulted in change in ideology and started another kind of exploitation known as "masses exploitation". In this way the world marched ahead and the clergy and the king continued to enjoy at the expense of the toiling masses. The struggle against them passed through many phases. Europe and Asia were drawn into its vortex.

The idea of "Divine Right of Kings" had its way in India as well, but a close study of the Hindu Scriptures would reveal that his theory has no sanction therein. What we find there, is that person of talent and patriotism could claim to be the Shadow of God, and that the kingship was not hereditary. Anybody who subjected the people to oppression and privations did not deserve to occupy that position. A study of the Hindu mythology shows that Indra Devta was made the king by reason of the qualities of heart and head which he possessed and only after he was elected by all the Gods who had assembled for this purpose. You should also march ahead in the same way. By closely studying the Hindu Scriptures it will be apparent that the king could be the Shadow of God only when he was chosen by election and he failed to satisfy that standard he could be removed. In India also the people have jointly set up the popular representatives for this office as opposed to the King. My purpose in going into these details is to show that the principle of electing the ruler in conformity with the report submitted

before this House by the Basic Principles Committee is not a new one. Nor is the product of our imagination. We hold that sovereignty rests with the people. Those persons were made the leader who would take care of others and possessed noble qualities of heart and hearts. Thousands of people have shed their blood and laid down their lives to uphold this divine right. A cursory perusal of history of Arabia will bring out how the foundation of equality was laid by the Prophet of Islam (Peace and blessing of Allah be on him). Who was born in Arabia. So far as greatness is concerned, it is not hereditary, as expressed in the Holy Quran as under: -

“INNA AKRAMA KUM UND ALLAH-IA TQAKUM”

The greatness of a man lies in his qualities of head and heart. As such, you will find in India, Europe, Arabia and elsewhere that, the basic principle is the same everywhere. Indra Devta was elected by the gods. Real greatness is not hereditary but consists in virtue in being afraid of God and appreciating the rights of the people. After the passing away of the prophet of Islam (Peace and blessing of Allah be on him) what we find that the very first Caliph who was appointed was neither the son of the prophet nor was he related to him. Although the relatives of the prophet were there, none of them was made the Caliph. The people assembled in a Mosque and Hazarat Abu Bakar (Allah be pleased with him) was elected the first Caliph. All the people own allegiance to him and in this way exercise their inherent right of sovereignty. Unfortunately, this brilliant ray could not last long in this Dark Age selfishness regained the upper hand reviving the principle of hereditary rule ship.

This picture of democracy which the Islam presented was put to an end after sometime and the old system got fresh lease of life. Again the King on the one hand and the clergy on the other conspired to crush the right of the people. But the struggle continued. When Hazarat-Imam-Hussain (May peace be on him) came into the picture he challenged the doctrine (of this kingship) and with the same tradition, made a martyr of himself in the battlefield of Karbala for merely upholding the sovereign right of people. The struggle continued out the goal for which the people struggling was not achieved because the struggle was

not based on economics. Many thinkers came on the scene, the most outstanding of whom was Karl Marx who maintained that the king is not the Shadow of God nor does he represent the collective will of the people. He further maintained that the king only represented a particular class, which prospered by exploiting the labourers and the workers. In other words, on the one hand there are "exploited masses like labourers, tillers, and workers; and on the other hand there is the king and his vested interests who pass their lives by exploiting the said masses. Marx, therefore, struggling against the catastrophe and went forward. Some thinkers came on the scene and pushed the idea of sovereign right of the people forward. After this the World War I started and a strong wave rose against the feudalism and capitalism, as a consequence of which, many kingdoms collapsed. The Czar of Russia was done away with and under the leadership of Kamal Pasha in Turkey the monarchy of Abdul Hamid came to an end. A great revolution rose in the world, which came to acknowledge the principle that sovereignty vests in the people. India also came under its sway and this idea gained ground here too and received further impetus under the leadership of Mahatma Gandhi. By relating these events of the world, I want to impress this idea of basic issue upon the minds of the Hon'ble members so that they may understand the principle under which the Basic principles Committee has submitted these recommendations in order to uphold the sovereign right of the people. The forty-lac people of Kashmir have got the right to appoint as their leader anybody whom they may choose. It is a matter of principle and personal or religious considerations have no bearing on it. It is for the education of this very principle that I have found it necessary to cite before this House some facts from the history of the world. I was, however, submitting that by this principle and this revolution, India could not remain unaffected. India also forged ahead in this phase. There arose in India a man, possessed of an iron determination, who endeavoured to demand the restoration of the lost right of the Indians. Crores of Indians men, women, children, old and young had to sacrifice their lives to achieve the same. I remind you of the period since 1857 A.D. to the time of Jallian-wala Bagh tragedy when the soil of India was reddened

with the blood of the people because the latter demanded the recognition of the right of sovereignty. When this movement was gaining momentum it was rather impossible that part of India i.e the Indian States which was inhabited by ten crores of people and was subjected to rigorous torture at the hands of the Maharajas and the Nawabs could remain unaffected. While some of the latter traced their descent from the sun, others traced it to moon and some of them from various other gods. The rest of these styled themselves as the very shadow of God. It was thus that ten crores of their subjects lived in acute misery. So the revolution spread over these States as well and the demand arose that sovereignty should be vested in the people and not in an acute misery. So the revolution spread over these States as well and the demand arose that sovereignty should be vested in the people and not in an individual. The representatives of the States, people joined together in this movement and founded an organization known as the Indian States people's Conference. The Indian leaders played a glorious part in leading the ten crores of the States forward but the high ranking personality, who made the greatest contribution like a crusader is the present Prime Minister of India, Pt. Jawahar Lal Nehru. (Cheers). The courage, fortitude and vigor with which he handled put before the world the problem of ten crores people inhabiting the States and the way he led them. I do not want to take the time of the House in narrating the same. I only want to refer to the way in which the Kashmir State took a glorious part at that time which too this day is talked about by all. Since that too is recent history, I do not want to repeat it with details. The sacrifices of the people of Kashmir and the way in which their children face bullets are well known they witness thousand of their brothers and sister bearing their last away of flogging, their elders made to crawl on their bellies, their women-folk dishonored and their house set ablaze, I want to make passing reference before this august House that there is hardly any part of the State which was not stained red with people's blood. Every nerve was strained to suppress this sacred principle. But due to the truth underlying this principle all oppressive and tyrannical power gave way. At last the time came when the people (basic) right was appreciated and recognized not only by the

whole but also even by the persons who had usurped it. Today this House has to decide the future constitution for the people of the State (cheers). Sir, whereas I have referred to the background of the events of the world, Asia, India and China, and the circumstances through which Europe was passing; it is imperative to cast a fleeting glance at our land as to what befell the forty lacs of people here. I do not want to take this House into the details of the past events. I am simply referring to the ruling dynasty, the recommendations for the termination whereof, have been submitted by the Basic Principles Committee. Sir, I want to relate to some extent as to what condition was and what befell upon this country during the last two hundred years: so that this august House may appreciate it well and help them to understand properly the said recommendations. In view of the backgrounds, which the Basic Principle Committee had before it while making recommendation regarding the abolition of hereditary dynastic rule, it could not but recommend the replacement of this rule by a democratic system of Government in future. In early times, I submit, the State was divided into various tribes like the whole world, which was also split up into various tribes and clans each of these having its own leader. The leader became the pivot round which moved the tribe. How did the present ruling dynasty come to power in this State? History has it that from the post of an ordinary servant of Maharaja Ranjit Singh, Gulab Singh gradually made progress due to his merit and became a favourite of the former. As I have already submitted in my speech our State consists of three provinces Kashmir, Jammu and frontier provision of Ladakh and Kargil, It was Jammu which first caught the eye of Gulab Singh and which was then fragmented into small principalities. As I told you mankind was divided into various tribes and clans, the same was the position of Jammu which was also split up into tribes. Basohli had a separate leader. Rajouri had its own leader. So had Akhnoor, Bhaderwah, Kishtwar and Jammu proper. In this way (each tribe moved around its leader).

It is a universal law of nature that when man stoops too low and mean action he is deprived of his freedom. With pious principles and action the lost freedom is restored. In Jammu also this very principle was in vogue. The people

of Jammu were at loggerheads with each other. Maharaja Ranjit Singh got the better of their weakness and invaded Jammu and, thus gained power. Having been deprived of their freedom the people of Jammu suffered many hardships and most of them were incarcerated. In those days, however, there was a brave man named Mian Deedo (Cheers) and the first “revolutionary” of Jammu who did not like to sell the sovereignty of the people of Ranjit Singh. He raised the banner of rebellion against Ranjit Singh, when the latter marched his troops into Jammu. Deedo appealed to the national sentiments of the people and mobilized them in the name of defending the basic right of sovereignty. He then faced the army of Ranjit Singh but could not stand the full might of an organized force. He fled from Jammu and sought refuge in Udhampur. Near Nagrota, he started guerilla warfare. In those days, Kashmir had already become a province of Ranjit Singh’s Kingdom, Ranjit Singh used to receive fruits from Kashmir. It once so happened that when apples in closed cases were being sent to Ranjit, Main Deedo in the way took out all the apples from the cases and replaced these by dung and ordered the coolies to carry these cases to Maharaja Ranjit Singh. He bade them to tell Ranjit Singh that it was a present from Kashmir. When Maharaja Ranjit opened the case and found dung in place of fruit, he got enraged and asked how it happened. The coolies stated that all the fruits were taken away by Main Deedo who ordered them to replace these by dung and threatened that if it was disclosed they would be put to death on their return. Maharaja Ranjit Singh got enraged and said that he would not feel at ease unless he would bring this enemy to an end. He wished to take the command of troops into his own hand and take revenge of Main Deedo, Gulab Singh, as I told you just now held an ordinary post but due to his merit and foresight, he thought it a golden opportunity to lay for himself the ground work of kingship.

As such, he said to Ranjit Singh that it did not befit the dignity of such, a great king, as Ranjit Singh to fight personally with an ordinary rebel. He asked the permission to set right Main Deedo. Accordingly, Gulab Singh (who was then called by the name of Main Gulab Singh) marched into Jammu with Sikh Army. He took advantage of the weakness of the Jammu. Main Deedo who never

lacked courage, tried to rouse the people of Jammu but could not stand the heavy odds arrayed against him. He fought the battle for the principle of freedom of his land at Katra Vishnoo Devi and lost his life in action. When this news reached Raja Ranjit Singh, he felt very happy and made Gulab Singh the Raja of Jammu. Having thus become the Raja of Jammu in 1800 A.D. Gulab Singh began to extend his territory with the help of Maharaja Ranjit Singh, and abolished all the small Rajas of Basohli, Akhnoor, Bhaderwah and Kishtwar, one after the other, Channi was also in the same way attacked and the Raja was ruthlessly put to an end. The Chieftain Rajouri was blinded with hot irons after he was arrested. In this way the leadership of Rajouri was tyrnically put to an end. When his kingdom expanded in whole of Jammu. Maharaja Gulab Singh cast a glance at Kishtwar, the people whereof were relentlessly put to death, Sir, it is a lengthy story and I have not got the time to state with elucidation. As to how he established his power. One should go and find out the ruins of Basohli, Kishtwar, Bhadarwah and Ramkot which are silent testimony of the oppression and violence with which Gulab Singh established his rule. The "lust of power" continued in him as power went on increasing. As such, Gulab Singh while trying to expand his kingdom attacked Zaniskar, via Kishtwar and truned victorious. Then came the turn of Ladakh and Kargil. He sent his troops to attack Ladakh under the command of Zorawar Singh. It was in 1833 A.D. When he invaded Ladakh. The people, Murath, Biana, Ashana and Mowath displayed stiff resistance for the security of their land. You will find the names of these places in the History of Ladakh. Ladakhies shed their blood of defend the principle that sovereignty resides in the people. The people of Ladakh –men, women, children and all- fought to defend their land against the enemy, with whatever weapons they could lay their hand on-stones. GULELS etc. But they could not stand against Zorawar Singh and the later forged ahead, usurping their freedom. Then came the turn of Tibet. The Ladakhies had fled and taken refuge in Tibet and the sentiment of revenge had not subsided in their minds. Gulab Singh's "lust of power" had not yet minimized. Zorawar Singh chased the Ladakhies and the latter, despite their poverty and weakness, lay in wait for him. They besieged him

and was killed by two brave Ladakhies, Ladakh, thus breathed free air once again. Gulab Singh was very much upset at the news of the death of his best General, but he could do nothing more than repenting over his loss. However nature though I cannot say nature it was own cunning) showed him another way which leads to a beautiful valley. Consequent on the death of Ranjit Singh , dispute arose in his dynasty, which shook the very foundation of Sikh Empire. Britishers who were already at that time in India invaded the Punjab, Sikhs bravely resisted the Britishers. The latter were unnecessarily worried that the brave Sikhs might not be the cause of their being driven out of India. After spending lacs of rupees. The Britishers managed to crop up controversies in the Sikh Durbar. Sikh leaders felt surprised as to who could lead them. As Ranjit Singh had made, Gulab Sing the Raja of Jammu, had nurtured him, and the latter had got every thing due to the former; they thought of Gulab Singh to be worthy of their confidence. They accordingly, invited him to take the command of their army. He found it is a golden opportunity . Now as he became the Commander of the Sikh army, the Sikhs believed that he would give better reward to them in view of Ranjit Singh's favours to him . But since he had the desire for power , he would not discriminate between a friend and a foe. He would not even hesitate from sacrificing his father, son and his other favorites for the fulfillment of his desire. On the one hand, he became the Chief of the Sikh army and one the other hand, he made a "sacred treat" with the Britishers. In conspiracy with the latter he secured a promise for getting Kashmir as a reward for maneuvering the route of the Sikh troops. The Sikhs fought their last battle at Sabharwon where they resisted bravely, with the pride of Rajputs, being prepared to meet their end. Gulab Singh deliberately got the Sikhs killed at the hands of the Britishers which resulted in the establishment of the British Supremacy in the Punjab and culminated in the execution of that disgraceful treaty known as the Treaty of Amritsar. This treaty was signed in 1846 A.D. between Maharaja Gulab Singh and the Britishers. Article 3 of the treaty reads as under: -

In consideration of the transfer made to him and by the provision of foregoing articles, Maharaja Gulab Singh will pay to the British Government a sum of rupees seventy, five lakhs (Nanak Shahai) on 1st October of the current year.'

Therefore, in view of all those services rendered by him to the Britishers and in view of the termination of Sikh influence in India., Maharaja Gulab Singh succeeded to purchase Kashmir for Rupees seventy five lakhs (Nanak Shahai), Maharaja Gulab Singh like Ranjit Singh sent his Minister, Lakhpat Raj and Rattan to the Governor of Kashmir-Sheikh Imam-ud-din , for obtaining the possession of Kashmir. But the Governor Sheikh Iman-ud-din refused to give possession as a consequence of which a battle took place between Kashmiris and Maharaja Gulab Singh soldiers. All Kashmiri's men, women, young and old-fought with full vigor with KANGRIES, Stones, GULELS and Swords and a great battle took place. Maharaja Gulab Singh's General Lalpat , who had taken refuge in Hariparbat fort was killed there. Gulab Singh's army fled to Shankra Acharya hill and made surrender. But latter, he sought the help from the British Government who sent its army under the command of Lord Lawrance and Lt. Dodlay and attacked Kashmir. At last, that element which fought for freedom received the same treatment, as was the case many years later at Jallianwala Bagh where the people were ruthlessly shot dead by O'Dwier. The freedom of Kashmir was thus put to an end and Kashmir was handed over to Maharaja Gulab Singh. How the people of Kashmir were dealt with in 106 years of rule. I do not want to go into the details but the situation is before you in the words of historians as to what was the condition of the people of Kashmir during the last 106 years. As I have already explained in the beginning of my speech how the king and the clergy joined together to exploit the labour of the workers and rode rough –shod over their aspirations for their personal aggrandizement. What did Maharaja Gulab Singh and his descendants do in Kashmir. I do not want to describe that painful tale to the Hon'ble members of this House, in order to avoid causing worry to them. But I would like to give an outline of this story only. The vital problem confronting Maharaja Gulab Singh was to devise ways and means to pay rupees

seventy-five lakhs to the Britishers since he did not possess the money. For this purpose he met a BANIA and entered into a deal with him. The BANIA asked what benefit would go to him if he would give the Maharaja that money. On this, Gulab Singh assured him that in lieu of money, he would reserve the post of State's Prime Minister for a selected member of his family and also entitle him to one anna in rupee of the State's revenue and the rest fifteen annas would go the royal coffers. The name of BANIA was Dewan Jawala Sahai who was a highly clever man. The BANIA was very anxious to have his money back very soon. So both these Baniyas joined together and Maharaja Gulab Singh exacted the money with extortion from the labour of the workers. Anybody who would come with representation containing grievances was charged one rupee per application. In this way, various means were devised to collect the money, thus sucking the blood of the people to fill the coffers. An historian has recorded an instance, which is loaded with pain. I do not precisely remember whether it relates to Gulab Singh or Ranbir Singh. One evening as he was going down in a Shikara towards Alikadal, he saw a group of people carrying Mashals (torches) crossing the bridge. He thought that it was some enemy who had attacked and he fell upset. He learned from his orderly that it was the marriage procession of a respectable family, perhaps Kanthas. The orderly said to the bridegroom's father that the Maharaja had called at his house to felicitate him and asked him to pay Rs. 30,000/- as Nazrana into the treasury. He paid the Nazrana of Rs. 30,000/- into the treasury by selling his entire property. Hundreds of thousands of such instances have occurred during the last 106 years and a close study of history reveals how the 40 lac people of his land had to face hardships. The people now appreciate and are conscious of the oppressions to which their elders were subjected. It is, therefore, that the people like termination of personal rule. The people of this land- whether from Ladakh, Jammu or any other part of the State- will not pass their life comfortably until this rule is terminated. I cite an instance of 1920 before this August House. It is a happy and painful story and will take months to narrate. However, Mr. Scott O' Connern, an historian writes about the condition of the people as under:-

“One can tell that this is a sad people who have borne for centuries with grief: who have learned to bend their heads to the storm and have grown twisted and crooked in the process; yet in whose hearts there survives a perception of the purposes of God and an increasing desire to rise once more into the sunlight of noblemen...

“Alas, if the record of Kashmir be read alright it is a moving tale of human sins and there are not many races in the world upon whom the hand of fate has been laid so heavily as upon those who inhabit this, perhaps the fairest corner of the earth”.

Had not Kashmir been beautiful, perhaps we would have not been subject to these hardships. Our distinguished visitors who come to this place cannot but praise its beauty. But they do not know that this very beauty has become the cause of our privations and the shackles of slavery in which we are enmeshed. We tried many times to achieve freedom and get rid personal rule but failed to do so. It is the firm determination of the people of Jammu and Kashmir to liquidate system even if it may cost them their lives. The aforesaid historian continues:-

“Kashmir in truth has paid the price of beauty, that “fatal gift” of which the poets have sang early time; and she has paid it an hundred-fold. Those who have lived here have fallen under her caprices as men fell of old under the wiles of Circe; and those without, born under a ruder heaven, have covered her jobs with a fierce desire, and have seized upon her treasures with unstinted hand. It is under the stress of such events that the character of her people has been evolved; and it is a character that is not noble or beautiful, though deserving of sympathy and help from those who have had a happier destiny. There have been times when the life of a man in this land has been held of little more value than the life of a dog... Neither their lives nor their property, nor their honour, has been left to this unfortunate people in the past.

Sir, the situation was that the ruler caught hold of women forcibly and ankle-bells were tied on their hands and were made to paddle the boats. The Ruler with his companions would that go to Dal Lake and would drink there. This

is the past fate of the people of this land. It is, therefore, that at the cost of our lives we have resolved to obliterate this system. Continuing further, the historian says: -

‘It is only of late within the present generation and within the past few years that the clouds have lifted and that they have begun to raise their heads from the dust of centuries of oppression and though they know that this change has really come and is likely to say, they cannot yet in their hearts believe in its duration. Children of light and of a land beautiful beyond the dreams of ordinary men, have a profound sadness visible in their eyes and in the workings of their spit and a great fear still lingers in their hearts. This fear is extraordinary in its manifestations; it assails men of gigantic frame and energy and I have myself wondered to see such a one tremble all over his body (as a thoroughbred hunter may be seen quivering by the covert side when bounds are at work on a winter’s morning; but with how different and emotion) at the sound of an angry voice. Such a fear and such memories of necessity provoke qualities of character and temperament upon which those whose past has been happier are prone to look down in anger and a measureless contempt; but even in these respects a marked difference is visible even to a careless eye between the people of the fields and hamlets and those of the city and between the former in their intercourse with each other and with those are of the State or who come with an air of power and authority into their midst.’

An historian has recorded this in 1920. Considering him to have written this from a particular angle, nevertheless. I quote another instance of 1929. On his, being relieved from the post of the Prime Minister, Sir Albion Bannerji, who was brought here by ruling dynasty in 1929, you can see that what he has written about the ruling dynasty and the subduedness of the people of this land on the basis of personal experience.

“Jammu and Kashmir State is labouring under many disadvantages with a large Mohammedan population absolutely labouring under poverty and very low economically governed like dumb driven cattle. There is no touch between the Government and the people, no suitable opportunity for representing grievances,

and the administrative machinery itself requires overhauling from top to bottom to bring it up to the modern conditions of efficiency. It has at present little or no sympathy with the people's wants and grievances."

It has at present little or no sympathy with the people's wants and grievances. This is the certificate of the said Prime Minister of this State which he kept here when he relinquished his office. However, Sir, I was submitting that the advancement of ideas and thought and the speedy change, which the times underwent, could not keep the forty lac people of this land un-influenced. How could they remain unaffected, when they on submitting a representation to the Viceroy were subjected to transportation, placed behind the bars and horses ran their bodies? They fell but regained the strength. At last the people of this land rose in 1931 and it was on the 13th of July of that year that the blood of the people was shed by firing. In order to ride roughshod on the desires and aspirations of the people as usual with all kings who have established their rule by exploiting and suppressing the people and the workers, various men's were used. Lacs of our brothers and sisters were put to death. The heart rendering scenes how the elders were forced to crawl on their bellies were witnessed by the world. This all is present history. But in spite of this repression and tyranny, our caravan continued to march for war and a time came, when in 1946, under my leadership, the organization of all Jammu and Kashmir National Conference, which had the honour of conducting this movement, made the final bid for freedom by raising the Slogan of 'QUIT KASHMIR' When on 6th May, 1946, I made a speech on this subject, a portion of which was published in the "Tribune" of May 26 which I want to read before the House:

"The rulers of the Indian States who possess one-fourth of India, have always played traitors to the cause of Indian freedom. The demand that the Princely Order should quit is a logical extension of the policy of 'Quit India' when the Indian freedom movement demands the complete withdrawal of British power, logically enough- the storages of British Imperialism also should go and restore sovereignty to its real owners- the people"...

I made it clear in the course of my speeches that it was a fight for principles and no religious, racial and communal considerations were involved. As such, when I raised this slogan, I said to the people of this place:-

When we raise the slogan of “Quit Kashmir”, we naturally visualize that prince and Nawabs should quit all the state. I am sure this demand applies similarly to a State like Hyderabad where the people will, I am sure raise their voice “Quit Hyderabad”.

As we were fighting for principles, there was nothing against any person or religion in it but we were fighting for the fundamental principle of humanity. From the beginning of this world the man has been fighting for the achievement of this principle for the recognition whereof Luther gave away his life and thousands of people had to sacrifice their lives in the French Revolution and the revolutions which came in Turkey, Russia and China. There is nothing personal or religious about the slogan, which I raised in this connection. I finally and ultimately made the aspirations and ambitions of the people of this land manifesto to the world. When the fate of India was being decided I was arrested because of this crime and arrogance. After having been tried for rebellion, I was sentenced to nine years imprisonment and a fine of rupees fifteen hundred. My trial afforded me yet another opportunity to explain the aspirations, desires and hopes of the people before the court of law. The following are the worth-mentioning words of my statement.

“I hold.....”

“The fundamental rights of all men and women to live and act at free human being, make laws and fashion their political, social and economic fabric, so that they may advance the cause of human freedom and progress, are inherent and cannot be denied though they may be suppressed for a while. I hold that sovereignty resides in the people, and all relationships, political, social and economic derive authority from the collective will of the people”...

That is the struggle for the basic principles. This struggle is not directed towards any person of religion, the principles whereof I am elucidating before the

world. Not today, but in 1946, I had clearly and lucidly presented its outline when I said:

“The future constitutional set up in the State of Jammu and Kashmir cannot derive authority from the old source of relationship which was expiring and was bound to end soon. That set-up could only rest on the active will of the people of the State, conferring on the Head of the State the title and authority drawn from the true and abiding source of sovereignty that is the people.”

I continued:

“The State and its Head represents the constitutional circumference and the center of this sovereignty respectively, the Head of the State being the symbol of the authority with which the people may invest him for the realization of their aspirations and the maintenance of their rights”.

“The Head of the State will have to be elected.”

This was not only my principle, which I enunciated before the world but I represented the voice of the forty-lac people of the State and expressed their aspirations. It was a principle and an ideal which the thinkers of the world adopted and whereof many immolations were made. On studying the Hindu Scripture of the old views of the people, you will find that any person who possessed the “qualities of mind and heart” got the “Headship”. The Indra was made the King by the Gods only when he had the “qualities of mind and heart”. The Hind Scriptures also state that if a king is misled or if he encroaches upon the rights of the people he can be removed. In view of these things, another thinker St. Thomas Aquinas has stated that:

“A king who is unfaithful to his duty forfeits the claim to obedience. It is not rebellion to depose him, for he is himself a rebel whom the nation has a right to put down. But it is better to abridge his power that he may be unable to abuse it.... All political authority is derived from the people and all laws ought to be made by them or their own representatives. There is no security for us so long as we depend on the will of another man”.

Sir, these arte the emotions under which the Basic Principles Committee has the honour, bestowed upon it by this House of formulating the broad principles for

the Constitution of the States. The recommendations made by the Committee, which are, it is said, the out come of those treaties which stimulated its heart and mind towards those ideas and thoughts. It is urgent that when a man has made an agreement, how can it be changed? So far as I am concerned, I would personally say nothing but in this connection I present before you the ideas of that brave personality, who has moulded the destiny of thirty Crores of people of India which he (Pt. Jawahar Lal Nehru) expressed at the session of the State's People's Conference held in Ludhiana. It was when my colleagues had gone there and when I was behind the bars that a lengthy resolution was submitted under his (Pt. Nehru's) Chairmanship. I state a relevant portion of it as under:-

"In any even Treaties made over a century ago cannot be considered binding on the people of the States at a time when conditions have entirely changed. Treaties are now used by the Paramount Power to intervene in the struggle for freedom in the States in favour of the Rulers and the obligation of this Power to protect the people from misrule is ignored."

Continuing, he has said, in his Presidential address, about the "Treaties and Rights" that

"We are told now of the so called independence of the States and of their treaties with the paramount power which are sacrosanct and inviolable and apparently must go on forever and ever. We have recently seen what happens to International Treaties and the most sacred of covenants, which do not suit the purpose of Imperialism. We have seen these treaties torn up, friends and allies basely deserted and betrayed and the pledged word broken by England and France. Democracy and freedom were the sufferers, and so it did not matter. But when reaction and autocracy and imperialism stand to lose it does matter and treaties, however mouth-caten and harmful to the people they might be, have to be preserved, it is a monstrous imposition to be asked to put up with these treaties of a century and a quarter ago to in the making of which the people had no voice or say. It is fantastic to expect the to keep on their chains of slavery, imposed upon them by force and fraud, and to submit to a system which crushes the life blood out of them. We recognize no such treaties, (cheers) and we shall in no

event accept them. The only final authority and paramount power that we recognize is the will of the people (cheers) and the only thing that counts ultimately is the good of the people”.

These are the ideas of a person who is the Prime Minister of thirty crores of people and not only he is the owner of their bodies but also commands the confidence of their hearts. He is the benefactor of the ten crores people of Indian State (Cheers). The organization of the State has the honour of being a voice of the aspirations of the forty lac people. He also got the following proposal passed by the Working Committee on 10th February 1946.

“The National Conference has at several occasions made it clear that these treaties have been made in times and under circumstances which do not obtain now and have been framed without seeking the consent of State’s People. Under such circumstances no treaties or engagements which act as a dividing wall between their progress and that of their brethren in British India, can be binding on the people.”

Sir, I was submitting that reference can be quoted as to how the treaties can be broken. One can find out by going and enquiring from the sights heaved by the oppressed people of Jammu, Akhnoor, Poonch, Ladakh and Kashmir, as to what the Kashmiri masses want. You can go into the grave-yards and ask the dead of Jammu as to what they wish and whether they want to obliterate the oppression and repression. You will see that no voice but “yes” will come out. This relates to the existence of treaties and the way in which these can be terminated. These are not our speculations but it is a principle of the world and we cannot keep ourselves aloof from it. I have presented before this House an outline of the views of the Indian leaders. I have not got the time to continue my speech further. The Basic Principles Committee has recommended the termination of hereditary dynastic rule and its replacement by a President elected by the people for a limited period and not for lifetime. If he does not efficiently discharge his duties during his tenure of office, he will be placed under impeachment (cheers). However, the Committee has made the recommendation for the termination of his hereditary rule in the light of the desires of the people

who under the guidance of National Conference have scarified their lives, have gone to jails and put in narrow cells inhabited by serpents and scorpions. Hundreds of women-folk have been dishonored, hundred made to crawl on their bellies and thousands rendered martyrs by shedding their blood. It is the saying of leaders that freedom cannot be achieved by requesting but by struggle. Only that nation attains freedom, which sheds its blood for this cause. This again cannot be achieved by begging. Freedom can be obtained only when the people of Jammu, Kashmir and Ladakh- make sacrifices in the manner in which lakhs of people like Luther have struggled for their liberation. I want to make it clear to you that this issue has not cropped up under some sentiment of vengeance or because the Raja fled at a time when catastrophe came. It is not even because we were imprisoned and now we have gained power so we should wreak vengeance on him. I want to say to the world that sovereignty belongs to the people and not to an individual. Thinkers came on the scene to attain this basic right and affected the transfer of sovereignty to the people. This was not done in view of personal interests. Unless you give sacrifices in the field, you cannot achieve freedom. The representatives of Ladakh, Jammu, Kishtwar, Ramkot, Poonch, Kargil, Bhaderwah and from every corner of Kashmir have assembled in this House to decide the issue on behalf of the 40 lac people in the light of the recommendation made in its report by the Basic Principles Committee. This recommendation has not come under the sentiment that Karan Singh or Hari Singh of the Ruling Dynasty belongs to Hinduism Religion has nothing to do with this. Had there been any Kashmiri in his place the Committee would still make the same recommendation sovereignty rests with the people and not with any individual. Provincial feelings have no bearing on it. This is the question of freedom in the light of which the Committee has made such a recommendation. Nature as bestowed Kashmir with beauty but lac of freedom has frustrated it. I would like the members from Jammu to ask the ruins of Basohli which was rendered desolate when it was just prospering and its freedom encroached upon. Wicked people try to give it a communal colouring in order to maintain their interests through plunder. The Basic Principles Committee has dared to present,

before this House, its report in view of the principles of humanity. The report contains sound recommendation. While not taking much time of the house, I wish, before I wind up speech, to communicate my feelings, to all the people, which I have expressed. People on the other side of the Cease-fire line Muzaffarabad, Mirpore, Poonch and Gilgit etc. had struggled jointly with us. This principle will not, therefore, apply to only one part of the State but also to all people of the State including those brethren of ours who been separated from us and whose eyes have been shut and tongues gagged in Pakistan. My feelings are alike for you and the rest of my brethren. We want to establish such a system in the State as would shine like the Sun. The principle will not benefit only forty lacs of people but it is my fervent desire that this principle may apply to other States as well, so that the people thereof may live a free life.

While presenting these recommendations I, would request the Hon'ble Members of the House to begin discussion over this issue and express their views in the light of these principles and to declare the liquidation of that principle which is antagonistic to the basic principle of humanity)Cheers).

Mr. Moti Ram Baigra:- Hon'ble President ! Before I invite the attention of the House towards the report of the Basic Principles Committee, which is now before the House. I would submit that the Hon'ble the Leader of the House has narrated the whole history of the past.....

Hon'ble President: Are you supporting this resolution?

Mr. Moti Ram Baigra:- Sir, I have risen to support it.

Hon'ble President:- The House now stands adjourned for lunch till Half past two.

The Assembly then adjourned for Lunch till Half past two of the Clock.

The House reassembled after Lunch at half Past two (2.30)

(Mr. President in the Chair).

Mr. Moti Ram Baigra:- Sir, the Hon'ble Leader of the House has explained this report with full elucidation. I also like to make a few submission. So far as the forty lac people of the State are concerned, a predominant part of the population with the exception of a few families, is disgusted with personal rule. It is said that the British imperialism had joined hands with some despots to strengthen its roots in India and subsisted with the support of these despots. There, (Maharajas and Nawabs) were the agents of the British and the latter managed to erect the frame-work of their Government with the support of these pillars and also created 582 States in the Country. If you look into the history of Maharajas and Nawabs, you will find that they did nothing for the betterment of the people they instead, subjected the people to privations for the retention of their paramountcy and imperialism. They were also, responsible for the partition of India. The House is fully aware that on the one hand, there was a struggle for liberation and on the other hand, there was going on a bargain by the Rajas and the Nawabs. At last, with the efforts of Pt. Nehru who commands the confidence of 35 crores of people and late Patel Ji, the aforesaid State were combined into one Union of India, in consequence whereof we are assembled today to decide an important issue. This is nothing new. Eight years before, the people of this State had expressed their opinion in 1946 when the "Quit Kashmir" slogan was raised. While elucidating this, it was clearly stated that we want a "Panchayat Raj" in the State. The people wanted to get rid of personal rule, but the difficulty was that a part of the population of this State could not understand it properly. But when some youths of Jammu understood the whole issue, they welcomed it. This was a stepping stone to eradicate the poverty of people. In the meanwhile, the Chenani issue came into picture. The ruler of Chenani was a Jagirdar who ruled over 12 thousands people. Through eleven thousand of people belonged to his own community, yet that condition of the people was very bad. In his hands lay the fate of 12 thousand people. Everything vested in the hands of a person who neither possessed any intellectual faculty or had any constitution for his

Government. He could even order a death sentences through personally he was quit ignorant of Law. With his words and deeds, he proved that paramount in his hands was dangerous. In those very days, the movement of the National Conference had produced a stir in the people which was also felt by the people of Chenani. They did not wish to put with further oppressions of this Landlord. The National Conference, which had been set up in Jammu, came to rescue of the people of Chenani. Prior to this, I had also joined the national conference. I know it very well, to what extent did we tolerate the tribulations due to landlordism in his crusade. The sacrifices of the poor and simple people of Chenani are talked about by all the people. In Jammu province it was the first struggle of the people against landlordism. When the "Quit Kashmir slogan was raised, most of the people affected by the movement, joined it that very movement. Meanwhile, we went to Gwalior in connection with the States People's Conference. It was asked there as to what this "Quit Kashmir" slogan meant since it was not comprehended by most of the person. We clearly stated to them that the object underlying it was that Nawabs, Maharajas and Rajas should also quit along with the British i.e. The Government should be vested in the hands of the people. We do not say that Rajas and Maharajas are not Indians and should not live in India but our intention is to eradicate personal rule, replace it by people's rule. Considering this principle as correct, most of the people extended their support to us. The issue is an old one and we are only giving it is constitutional shape today when we are deciding the future of the State. The report of the Basic principle Committee is before us. The House should devote its best consideration over this and the facts presented before the House should be supported. This is a basic issue and not a new one. The Hon'ble leader of the House has also dealt with the period of Indra Devta's rule and has also referred to the Hindu Civilization. I submit that when Indra Devta failed to run the Government on a sound footing, the people went to Vishnu Bhagwan and revolted against the Raja. So the people in all ages were conscious of their rights to setup the people's rules on proper lines; they ignored the influence, personality and the position of any kind but struggled for their rights. Through the

recommendation of this report we are doing away with the old order. People's rule can be appreciated only when villages of the far-flung areas also realize that this is their own Government, and that this State is to be governed in the manner, in which, the present Government has been running the administration for the last four years and which has adopted the principles of people's rule. Sir so far as Main Deedo is concerned, I would submit that Deedo was a great revolutionary and different with Maharaja Gulab Singh in only point which he mentioned several times. He wrote to the Maharajas in his correspondence with the letter, that he should stop conspiracies with Sikh autocrats. So main Deedo could have forged friendship with the Maharajas but the latter exhibited reluctance. Deedo, a brave revolutionary son of the soil was killed in the battle. This issue may be viewed from various angles; some may, look to it from one direction while others from a different direction; but I would submit that the best way of considering it is in the light of the Vedic maxim "SARVAY BHAVNTU SUKHINA" which means that all people should be happy. Such a hope can be realized under the people's rule alone, which affords equal opportunities to all. We have to act in such a manner as will benefit 40 lacs of people.

With these, words, I would request the House to support these recommendations after careful consideration. I am highly grateful to you. Sir, for having conceded me sufficient time to voice my feelings.

Shrimati Ishara Devi:- Sir under Rule 25, clause 4, the copies of this report should have reached every members two days earlier. I have got its copy now and the other members received it only 15 or 16 hours earlier. So. I want that the discussion be postponed. As this is a delicate issue, it requires sufficient consideration. I therefore submit that some time is granted to us and the meeting be adjourned today.

Hon'ble President: - With regard to the objection raised by the Hon'ble member, I may state, for her information that notwithstanding the time fixed for notice under Article 25, I can allow the moving of any motion at "Shortest notice", and I have allowed this issue to be moved at short notice. All the Hon'ble members

were supplied with the copies of the motion yesterday, so the discussion should continue.

Hon'ble Bakshi Ghulam Mohamamd:- Sir, I request you to permit me to address the House while sitting. (The foot of the Hon'ble Members was in plastered).

Hon'ble President: The permission is granted.

Hon'ble Bakshi Ghulam Mohammad:- Sir, the Basic principles committee of which I am also a member, has presented its report before the House. There are also some recommendations in it, explaining as to what the form of administration, in future, should be for our State and whether the office of the Head of the State should be hereditary or elective. So far as these recommendations which are under discussion of the House at this time, are concerned the Leader of the House, Sher-I- Kashmir Sheikh Mohammad Abdullah, has shed ample light over these from historical, philosophical and other points of view. He has put the issue with full elucidations before the house, making it difficult for a Speaker to contribute fresh matter, Quaid-I-Azam, Sheikh Mohammad Abdullah, while presenting the issue, referred to Kashmir and by arguments, facts and history proved that the issue is an ordinary one. Leaving the events of history aside, I would submit that we have got our movement before us, which we started in 1934. What did this movement imply? Members of the House know that movement on some principles and shall conduct it on the same principles. It is one of these principles that we are discussing in this House. The opinion expressed by Quaid-I-Azam and the report laid before House by the Basic principles Committee regarding the application of this Principle have nothing novel about them as the National Conference has from its very inception been furnishing proofs of the progressive character of its movement. We did not apply this principle to Kashmir but this principle has been adopted and generalized in 685 States of India as well. In presenting this principle before the world what do we intend and what kind of system to we like to establish? We want the same type of administration which is being carried on it most of the parts of the world. That is why the various progressive sections of the world

supported our principle. Not only did they support it but also adopted this Principle.

I would invite your attention, sir, to April 1946, when the National Conference enjoyed the confidence of the People. Qaid-i-Azam as president of the national Conference, had submitted a memorandum to the Cabinet Mission, which embodied the same issue that is being discussed and expounded here. While submitting its report about the Indian State, the Cabinet Mission had in its "approach" completely ignored us, not to speak of the grant of freedom. It was the aim of the Mission to maintain slavery as heretofore. While emancipating India, it was, again the plan of the Mission to maintain 586 States as these existed before independence so that if one door of imperialism is closed, 586 may remain open, thus keeping India in an ever-lasting servitude. Sir, I would say it with pride and confidence that the plans and the mischief's of the Cabinet Mission were rendered ineffectual by National Conference and Qaid-i-Azam (Cheers). Qaid-i-Azam raised the slogan for the guidance of the people of the State and when India was being liberated, we unanimously presented a representation of 10 crores of the people of the State to the Mission and pressed for the freedom of the Indian States being taken into consideration. Accordingly, the basic thing was that "Sovereignty resides in the people". And what we are doing today is nothing beyond that. I listened to Qaid-i-Azam speech attentively and would say that National Conference occupies the position of a pioneer of the freedom of the States. The National Conference movement which you see today concerns 586 States of India which (once) existed on the map. As remarked by the Leader of the House Just now that "Quit Kashmir" slogan was not exclusively meant for Kashmir alone but it was a "Symbolic slogan" and also a slogan of "Quit all States". As a consequence, if you take into account the events of the last four years, you will observe that out of 586 Rajas or Maharajas only six exist today and the rest 586 have disappeared. You see today that not only Pt. Jawahar Lal Nehru but also India of Gandhi Ji has translated this slogan into reality and that 580 Rajas exist nowhere. We are not doing anything more than this. We are assembled here merely to give a practical shape to the said

symbolic slogan so that it is ratified by the elected representatives of the State under the sanctioned procedure, and enforced. Some of our friends are surprised and afraid to see this but this is nothing new. It is neither any new suggestions nor any new question new. They must see that when Rajas, Maharajas, Nawabs and the Nizam were abolished in 580 States of India, why did they remain silent and did not raise a hue and cry at that time. Qaid-i-Azam has repeatedly stated that we want to forgo today and to give it a practical shape. We want to implement the slogan today and to give it a practical shape. Then questions arise from those quarters, which, with their eyes shut, deliberately remain unfamiliar with the events of the world and India. They ought to have also known that if this issue had been brought before the house today, (God forbid) under a sentiment of vengeance and not as a matter principle. I would like to ask those friends that when in 1947 the State was invaded and the ruler had fled and in the words of some friend when we had taken up to enforce this decision at that time. But we did not do that. At that time, all the States of Rajasthan were merged and similar was the case in Orissa, Bengal and the Punjab. We watched it with "tolerance" so that we may put it into practical shape at the proper time. Sir, I will not take much time of the House as Qaid-i-Azam has already shed ample light on this issue from all directions; but want recommendations of the basis Principles Committee, which we are adopting today. I wish that this decision has been subjected to destruction and annihilation, unemployment and tribulations, as it present. Our sin was that the fate of the State, at that time, lay in the hands of an individual who ruled over the fact of forty lacs of people. He would know that when he and I were in Lahor in 1947, we informed the Maharaja to decide this issue immediately, as all of us were in favour of this accession; but being a man of own views he did not pay heed to any of our suggestions. He asked how it was possible for him to act on our advice.

Subsequently, Pakistan raided our State as a result whereof lives of hundreds of thousands were lost and our sisters and daughters were made to sell their chastity which further resulted in lacs of people being rendered homeless and living on roads. Had this House been independent in those days,

he would have been responsible and answerable to it. But the effect of the said calamities, which is being felt by us to this day, is known to all of you. The gravity of fault, which is being attributed to us, is that the National Conference is bringing in this issue under some sentiment. But I would say this authoritatively that the National Conference has not raised this issue with a bad motive but has done so in order to adopt this principle forever. I would add for the information of my friends that whether for good or evil, we would have decided this issue in 1947, had there been the Nizam in place of the Maharaja. The National Conference is fighting and making sacrifices for this principle. I would say, today, that the decision taken by our Qaid-i-Azam the leader of the House, is not only for forty lacs of people but will decide the freedom of one and a half crores of people. What we have done in this connection is now being finalized. This is not the question of Maharaja Hari Singh, but of this office—may it be the Nizam of Hyderabad, Maharaja of Pallampore, Junagarh or Rajasthan. Not today, but since its existence the National Conference has been fighting for this. You perhaps remember that when such a catastrophe appeared in Hyderabad, nobody from India rose for assistance, except the National Conference and Qaid-i-Azam who took a leading part in it. Keeping in view this principle there is not scope for any person who fights or to exhibit resentment. You can see what is happening in India—Six Rajpurmukhs have been appointed but what power do they enjoy at present? Only recently they were rulers in the strict sense of the term but the case is not so today. So, far as this movement goes, this is not the voice for our State alone but also for those whose hopes are connected with Kashmir.

The Hon'ble Leader of the House has been modest enough in having not mentioned anything about the Cabinet Mission and the work done by him in twenty years' struggle. He has only mentioned Pt. Nehru who for the people of the State and for the achievement of their freedom stood by Sher-i-Kashmir through thick and thin. The leaders of our National Conference were sentenced to nine years' imprisonment for launching the 1964 movement, as a result of the mechanization of the imperialists. When our Quid-i-Azam launched this movement in Kashmir the Nawab of Bhopal was then enjoying in Delhi. The Nawab knew

that the voice was not raised against Maharaja of Kashmir but against all Rajas and Nawabs. They, therefore, forget an alliance against this. It is the consequence of our movement that we have, after five years, assembled here, today. We have displayed great patience in achieving this end. It is a suspicious day for us that this issue has been presented before the House today and that we have got the opportunity to give vent to our thoughts. Qaid-i-Azam has not left anything unsaid about which we can speak anything more. Sir, I was stating about the tribulations, which we suffered after 1946. but what we did, was necessary, even if there was a Nawab or some body else. But, unfortunately for us, the Maharaja of this place was Hari Singh. The people of Kashmir resisted his actions with fortitude. The Government of India rendered assistance to the National Conference and also helped in administrating relief to the people. India evinced a deep concern towards our movement.

Prior to 1946, we had launched a movement in 1931. So far as the “progressive Character” of this movement was concerned, it was known to the world that the State possesses a majority of Muslims and that the pioneer of the movement who possessed a representative character, received assistance from top-ranking leaders of India like Bapu Ji and Pt. Jawahar Lal; while Muslim league which claimed to represent Muslims, never rendered support to us. Consequently a deep nexus was effected after 1946 between India and Kashmir. India has recognized the “Character” of our movement in her Constitution. Article 370 has been added in the said Constitution especially for Kashmir. There is nothing special in it. It is because of the Kashmir movement, which was taken into account. We are giving a practical shape to the same and there is nothing new. Everybody knows that the report, which is presented today, does not contain anything new except that it has been presented in a completed form. You must render your full support to it. There arises no question of amendment to this. This movement is a reflection of our ambitions and aspiration. Side by side with this, you have to undertake a great responsibility. In other words, we have to effect the completion of the people rule in place of personal rule in the proper sense of the word; so that the star of the movement of

the National Conference may ascend the topmost pinnacle. Qaid-i-Azam spoke for two hours over this issue and possibly other Hon'ble Members in the height of ecstasy might speak for even eight hours at a stretch. Our movement has, however, reached its destination and our old ambitions and desires have been fulfilled today and have borne fruit. But this alone is not enough, I would submit that the greatest responsibility has today shifted to Sher-i-Kashmir. After all, what is Awani Raj and Lok Raj? In this connection, I remember that in his prayer-meeting on 26th October, 1947, in Delhi, Gandhi Ji said that peoples rule is to be setup in Kashmir----- so is this to be done in Hyderabad and Junagarh. The dignity of a State is its people. You are today, giving a practical shape to the same, but I would submit that we are carrying a heavy burden on our shoulders today. We have to explain to the people the difference in personal rule and peoples rule. The people must appreciate that really personal rule prevailed here in the past and that the peoples rule is now showering its blessings over them. The forty lac people of the State must also appreciate that the sufferings to which they were subjected to in personal rule have now undergone a healthy and remarkable improvement by dint of our actions, words and deeds. The slogan of our Qaid-i-Azam is that nobody must remain hungry, undressed; sick ignorant, and unemployed, and this consummation must be attained. These four or five things are essence of our movement. Discrimination between personal and the peoples rule can be made from these factors. The star of forty lacs of oppressed people of this State, who had undergone acute servitude and degradation from the time of Zain-ul-Abidin, will now ascend to the Pleiades. May God illuminate the star of this State like the beauty she possesses appreciating the importance of this responsibility on our minds, we must adopt this report. We will face the complications, if any, with fortitude. You know we have faced even the greatest difficulty with unflinching course. If therefore, any impediment, in this connection, be offered, we will not at all hesitate in overcoming the same. With respect to the decision which we are taking today, may God cause the fate of the people of this State to reach its Zenith, in the precise of the term and may be Head of Qaid-i-Azam, Sher-i-Kashmir, who has given birth to this movement, be adjourned with

the diadem of pearls! This can only happen when all of you work collectively and when forty lacs of people appreciate the distinction between personal rule and peoples rule. The resolution may, of course, be passed by you but its implementation alone can truly impress upon the people the contrast between, the personal and peoples rule. This is my aspiration and prayer. With these words I wind up my speech.

Sardar Kulbir Singh: - Hon'ble president! I Submit that the report and recommendations presented by the Basic Principles Committee before the House, today, are based on the tenet which in his lengthy speech, the Hon'ble Leader of the House had started at the inaugural meeting of the Constituent Assembly, while presenting the board outlines before the State and the House. These broad lines have been, today, submitted in the form of recommendations by the Basic Principles Committee. So far as this principle, after having been made manifest, is examined or its suitability is concerned, it is conspicuous that of long history of the world has given its verdict that there is no room anywhere for personal rule. The elimination of such institutions is an evident as the words written on a wall. The man who does not look to the wall where these words are written and does not direct his attention towards them is to be blamed. This is neither the fault of the time nor of any other person but the fault lies with the person himself. That time has now passed it is observed on running through the pages of history that the masses had been misled, as it has been noticed that affairs were being conducted under the shelter of the maxim "Ignorance is a blessing". Most of the people of the world were living by labour and toil and were quite ignorant of the remaining aspects of life. The world moved slowly and necessities of the people were limited. They had a limited field for imagination. Matters relating to knowledge and research were formerly confined to a few persons but that age has gone and suffered a change. Sir, the Leader of the House has gone and suffered a change. Sir, the leader of the House has explained in detail the historical background. I beg leave to submit briefly that the world has by and by reached a stage where the people have to decide whether they should retain the Ruling Dynasty or do away with it. It may seem surprising

but history has already dealt with it. People of today do not study the struggle of the world from a distance, but they study from close quarters. Formerly, there existed some institutions and most of the population was concerned with these institutions but, during these days, every institution is observed minutely and its suitability or otherwise is judged thereby. As said by the Leader of the House history tells us that in early times known as the Vedic age there were many tribes and their chieftains. The chieftain a tribe acted in all matters according to the wishes of the tribe. The times underwent a change and the chieftains became kings. In every country, special element mobilizes all their resources to preserve their privileges. This process has been going on and still continues. About a century back, the people of the world were trained with religious motives. The kings would forge an alliance with clergies and the later were made to propagate the history of "Divine Right of Kingship" in order that the king may go on enjoying special privileges for which canalized all his energies. The invention of the printing press, in the sixteenth century, enabled the people to read the Bible in their mother tongue, as a result whereof, the talisman broke off. The people then came to know about the alliance of Kings and clergies and the attention underlying it. It was followed by Reformation and Renaissance. The people of the world came to know, as also referred to by the Leader of House, that the will if the people is supreme, as expressed by Roseau. This proved a "forerunner" of the French Revolution or the America War of Independence and other revolution. Two centuries have elapsed since the America War of Independence and the conclusions about the system of Government were then, reached at. But we are considering it again after two centuries whether the institutions of the Kingship of the proper or not sir, who can forget the following words which the Americans said in 1776:

"All men are created equal and they are endowed by their creator with certain inalienable rights---- that to secure these rights Governments are instituted amongst man deriving their just powers from the consent of the governed -----that whenever any form of Government, becomes destructive of

these ends, it is the right of the people to alter it or abolish it and institute new from of Government.”

Although the political trends of those days not influence the people living on this side of the Continent of Asia and who were not able to hear those words but a large population of the world was considerably affected by these. The slogans of the great personalities of America that “Government of the people by the people and for the people and of Rousseau of France that “Liberty, Equality and Fraternity” had reached the ears of the people, but, unfortunately we had not precisely hated these in Asia and did not study the same, in the way we should have. Leaving these things, a side I would submit that the things which I have stated, of two hundred years back, when studied today, must have a world difference Sir, the world knows the changes that have taken place in the last two hundred years. The change is not merely effected by returning the representatives. After this the world observed the Industrial Revolution and the Agriculture Revolutions. Thus the scientific outlook change the mode of things --- --State and the organization of the State. So far as this issue is concerned, I do not want to go into history but the speedy appearance of scientific inventions after the Agriculture and the Industrial Revolutions, enabled even an average person to think as to how the organization of the State ought to be. Does hereditary and personal rule suit in these times? I think it simply brings shame to utter such words.

Sir, at present, the scientific inventions have brought the world closer. If the mills of Lancashire suffer any change, it also affects the working class in India and Kashmir. Then how is it possible to retain such an institution which has no place in the world (Cheers). Let us take the instance of Russia. Fifty years before, had she been observing the world like a mere spectator, she would not have attained this position as she enjoys at present. Sir, we see that this is the age of competition and the country demands that every person should effect maximum output by dint of hard toil and labour and that the output be distributed evenly. This feeling should not be to a particular institution but to every man in this country so that he take the country towards progress. When the constitution

of the country is fashioned, people are entitled to send their representatives to the Legislature of the country and to exercise their vote rightly, and to see that the said representative takes the nation forward with the help of one prevailing system. Sir, while mentioning this, I think of democratic institutions of the world and history bears witness that in order to run the political administration of a country attention is also to be directed towards economic and social problems. We must draw conclusions from the past events and learn lessons from history. Ten years before, had our rules observed the trends of the world politics and the vicissitudes of history, most probably, the position of the State might have been different. If the present institution of our State is excused by the whole world, but a frustrated man of Muzaffarabad, Poonch and Mirpur can never condone it. Sir, that part of the population which is, at present roaming about from door to door, could have been saved from such a catastrophe, had the rule of our State in time the circumstances into account and acceded to India. The persons holding the reigns of Government, today, and some elders in those days, advised him to get the people into confidence and accede to India. But also! No heed was paid to it. Sir, I would submit that a great part of the population was subjected to destruction by the "Court intrigues" of the monarchy system. These intrigues, not only affected big families but hundreds of thousands of people fell victims to these. I have a personal experience of 1947 that when we cried to save the State from disaster somehow, all the entreaties made to the persons closely attached to the institution, fell on deaf ears. Sir, I submit that in his speech the Hon'ble Members said that the greatest danger of the retention of this institution is that imperialist powers will canalize their energies in all directions to find a support for themselves. We fear that they may not succeed in Kashmir. The British managed to rule for more than 100 years in India with the assistance of these institutions, namely Raja and Maharaja. If these Rajas will compare the past and the present history, they will feel themselves ashamed. Sir, out of the whole of India it is Kashmir which is exposed to the dangers of imperialism. Many tribulations were faced with courage during the last three or four years owing to the circumstances which this State passed. On the one hand, it is a question of life and death and

on the other hand the power of the world are trying to cast their nets here. Under the circumstances we have to think that the reins of administration are not given in the hand of an individual, which will prove harmful in the end. In view of the present condition, you should frame such a principle which will not disturb our Programme and which may liquidate the whole system that has been vogue for the last 2 centuries. The 500 State of India may, thus become free and prosperous with over line of action. We want to ask in lucid and clear terms to the people of India whether it is possible under any system to maintain personal rule. We stand the stead for determination for the idea and Programme of Kashmir. Without forging such a decision, there lies no alternative with us. I , therefore, hope that the progress-loving people of India will accord their welcome to the principle which we are framing and which will enable us to march on the road to liberty so that the remnant of feudalism may be exterminated.

Sir, after these words, I would State with appreciation that the recommendations which the aforementioned Committee has made for the liberation of people, are the essence of the events of the world. Our lives have become complex by our present circumstances. If you want to attain peace of mind and happiness of life and wish the freedom of people, you should act on a procedure, which for the election of the Supreme Head will enable the people to cast their votes with freedom so that the head of the State may be a person, who enjoys the confidence of the people. In this way, our State can pace with the world.

With these ideas, I wind up my speech.

Mr. Ram Piara Saraf:- Sir, I beg to submit a few words in support of the report of the Basic Principles Committee which has been presented by the Hon'ble Leader of the House. The fundamental issue in the report which the basic principles Committee has presented before this House is whether a Constitutional Ruler on the old lines should run the administration of the State or the appointment of a Head of the State should be effected through election on democratic lines. The treaty of Amritsar is also referred to the report. The Committee has declared this treaty as the outcome of imperial policy which meant to intensify personal rule in

some territories of India. The Committee has in its report made a passing reference to all these events, which after the partition of India look place in the State. The irresponsible administration could not cope with the crisis. The old system suffered a setback and could not resist the complexities and tribulations which befell the people owing to a state of emergency. The sovereignty vests in the people have always been struggling for the attainment of this power. The Committee has therefore, felt that appointment to this office should be based on the principles of elections in confirmity with the democratic views. Keeping this in views, the Committee has submitted the suggestion before the House for liquidating the hereditary right of constitutional ruler-ship in the State and filling up of this post by election. I do not want to narrate lengthy story, over which the Hon'ble Mover has shed ample. Light as to when the people lost their sovereign power and ruler ship started. But it is an historical event that class struggle has been going on since the origin of man, with the result that one class after the other came to power. Wishes so to maintain its power and interests. History is pregnant with such events. The people have always been struggling to achieve their rights and have displayed resistance when attempts were made to deprive them to these rights.

Hon'ble Mover has mentioned the various stages through which the struggle of the people for the achievements of freedom had a pass and the way in which the people struggled for the attainment of sovereignty. The Hon'ble Mover has also stated as to hoe individualism gave away to collectivism and how the man felt delight in a new kind of administrative set up. The man began to live a tribal life for his security. Chieftains were appointed in order to maintain discipline and to complete, in at better way, with other tribes. These Chieftains appointed their supreme leader. In this way the institution of Kingship came into existence. Those people stood by this institution who usurped the rights of the people with its assistance. Various resources were mobilized to maintain its paramountcy. History hears testimony to the fact that struggle between two conflicting theories has been taking place at every stage in the world. The master and the slave, the landlord and the tiller, the industrialist and the labourer have

been struggling in the form of two conflicting classes in various place of history. The development of science has intensified the present class struggle. The Middle class is becoming extinct. In every country, two conflicting classes, of capitalists and labourers, are busy in the preparation for a final struggle. This struggle is being conducted between these two classes in every nook and corner of the world. What will be the ultimate consequence thereof ? events and history will alone prove it, but we can forecast about the ultimate victory of the labour class. There is however, at present, a stiff struggle between capitalism and collectivism with the result that having started from one corner it will certainly, soon, bring the whole world within its lap. Surely, judicious and wise people of the world sympathies with the struggle of this class which is marching ahead and which has not received justice so far. It is being decided today as to which of system whether the one based on pillage and plunder, or the one which will prove salutary and profitable to all, is to be established. Prior to my speech some hon'ble members have expressed their thoughts with elucidation, on the issue, under discussion. This institution, about which this report has been submitted, constitutes the greatest impediment in present times in the development of society. This very institution has been the stronghold of the imperialists. Sir, Hon'ble Mr. Bakshi also stated in his speech, that had there been the government of Nizam in this State we would have put an end to this institution four years earlier. With this statement, he has certainly, injured the emotions of most if the Members. It is said about the people of Jammu that they are communalists and conservatives, but I want to make it clear that the people of Jammu have never been communalist and will never be such. They will, surely proceed to the destination of progress, shoulder to shoulder with the industrious people of Kashmir. But the thing is that the people of Jammu have some genuine grievances. The people of Jammu alone have not these grievances but the people of Kashmir have tenfold.

The Hon'ble revenue minister:- A big grievance is being redressed today i.e. the termination of monarchy.

Mr. Ram Piara Saraf:- It is the duty of the Government to pay her attention towards amelioration of these grievances. On this occasion I wish to invite the attention of the House to another fundamental issue raised from certain quarters to the effect that this State will be partitioned. This voice is coming sometimes from Delhi, Karachi, London and Lake Success, and is particularly coming those quarters to which the Government of India has entrusted this issue for decision. In order to resist this voice and any such, even the children of the State will struggle, and success of such a plan will be resisted at all costs. I hope the Hon'ble Leader of the House will certainly cast light on this at the end of the discussion of this report so that the apprehension, prevailing among the people may disappear. With these words I support the report.

The Hon'ble Girdhari Lal Dogra:- Sir, the issue before the House, at this time has been made appear a very big problem, while I think that this is an ordinary issue. Some people attach much importance to it, while others assign sentiments to it. But I don't think it so important as that people should be carried away by sentiments. It is the demand of the time. Of very old, such things have been happening i.e. the institutions, which could not fulfill the needs of the people, were liquidated. We are also fulfilling the same need at present. In this connection I remember that thousands of years back, when Arjuna was overwhelmed by sentiments, he said that all were his kith and kin. Shri Krishna told him as stated in Shri Bagwat Gita, "that he should not hesitate from discharging his duty to destroy his enemies". It is the demand of the time and country that should terminate these institutions and win praise (Cheers). Some people today, complain about the National Conference and the leader of the House. I want to ask as to who struggled against the Maharaja of Borooda. He was kept on long as he was needed as and when this necessity ceased, he was removed, Raja of part C States according to the Indian Constitution have been abolished. The throne of Raja of Chamba (our neighboring State) had been existing for generations although the ruler-ship of the Raja had not behind it the sanction of any treaty or document: but he was the most probably, maintained there by the people. When the occasion arose he disappeared in a single night.

Pertaining to part B States, you see, as also said by Hon'ble Bakshi Sahib, the Deputy Leader of the House, that there are only six Rajas but as Rajparmukh and accordingly to the constitution of India, all part B States shall be placed "at par" with Part A State. There will be no discrimination between a Rajparmukh, how can than part B States be "States at par"? if actually, these States have to be "States at par" there will be than no Rajparmukh, they are now guests for a few days. Probably, in the whole of India, there is nowhere such an institutions except in our State. But how can it remain here? This dynasty should also see that if the interests of the State demand termination of his institutions, they should abolish and if the Ruling House does not fulfill this demand of humanity, it is not then doing justice even to itself. Keeping in view the blood which dynasty had to shed for the establishment of the State, it is necessary for the said dynasty to see as to how the unity and existence of the State can be maintained. This institution now does not fulfill the needs of the people and the members of this dynasty should also, as citizens of the State help in the progress and prosperity of the State. Our progress is dependent on this very thing. When this institution does not fulfill the needs of the time, it should terminate itself. The people have paid a big price for the maintenance of this institution, when it fulfilled the needs. Hundreds of thousands of people sacrificed their lives. Inspite of the fact that the people of kandi get scorched in hot whether due to intense heat and have to take water from tank and ponds full of insect which afterwards come out from their feet, yet they do not raise any voice, through they continue to pay the taxes. But all feel it today that there is no necessity of this institution. Now history also does not justify it. This is to be seen that if the society wishes to terminate this institution, the latter should then effect its abolition itself.

A member who is elected to the office of the Head of the State, can be discharged form that office when he does not enjoy the confidence of the people. He can have no justification thereafter to continue in the said office.

Hon'ble Leader of the House had stated about Raja Indra had been elected as Raja and he was not the only Indra, but it is the view of the historian that from time to time they (the Indras) underwent an alteration Raja was called

the Indra. Whoever gained popularity amongst the people, owing to his efficiency etc, used to become the Indra whenever any person tried to gain better efficiency then the Indra, the latter was anxious that the person may not deprive him of his throne and as such tried to put obstacles in the progress of the said person. It was the procedure of those times, that the Indra of the time did not allow anybody to attain greater efficiency and virtue .

The traditions of the Surajabansi Dynasty with which our royal family connects itself, show that Shri Ram Chandra Ji exiled his wife, Sita Mata Ji from his home on the statement of a washer man who did not like her to reside there. All are familiar with the tribulations suffered by Ram Chander Ji which followed after sending out Sita Ji on the statement of the said washerman.

Now when the people say that this institution is not needed, why should the present Royal family deem it then improper to fulfill their desire? It should be proud in maintaining the old traditions of its Dynasty.

Sir, as I submitted that this issue is quite simple and straight although it is being considered as an important and complicated one and yet I do not deem it so. Therefore, in order to take much time of the House over this ordinary issue. I support the recommendations of the Basic Principle committee Mr.Mir Qasim, Sir, made concrete suggestions in the form of recommendations particularly, the recommendations relating to the termination of hereditary, rulership which is under discussion; do not call for any elucidation. Only, the implementation of these recommendations can explain as of what historical importance is the phase of the inception of a new order, after the termination of the old one. The Leader of the House delivered an historical and important speech on the necessity of abolition of Monarchy. He also submitted an historical background of the evolution of this institutions. So what the Qaid-i-Azam has stated about this. Does not call for any further discussion. These are not merely proposals or remarks but these can produce irresistible conclusions. These again, are not merely words. Generally, only those nations are dejected by pharmacology of words whose feeling and consciousness is not matured. But our national consciousness seems to have already matured. Our nation is fully aware of the

drawbacks of this institution from experience gained during her twenty years struggle. The movement, after having passed through various tests, made the people realize that this institution hampered the interests and the progress of the inhabitants of the Jammu and Kashmir State. They therefore, decided that this institution be deemed as unnecessary. The history of the movement of the National Conference bears evidence to her verdict that a system which owing to its limitations, is irreverent and hollow, is sure to bring in its annihilation.

The Leader of the House has stated in detail about “institution of monarchy and kingship” and the “background” whereof has also been presented in clear terms. It will not be improper if I cite a small instance, for a minute to explain the same. Anybody whether he accepts the theory of institutions or recognizes a human being as the caliph of God about the evolution of human beings shall necessarily have to admit that man was born free. After having established “primitive society” in jungles, man began to live jointly and for maintaining his security, it was his corporate function to kill lions, tigers and such other wild animals. The supply and distribution of food was, again, his collective business.

The means of production suffered a change when the age of tools, such as, swords, daggers, arrows, ushered in the these things were like scientific invention for him. He then asserted that if a man killed an animal with his arrow, it was the property. In the same way, an animal hunted by a particular man with his sword, dagger and gun, belonged to the hunter as if no body had the right to use it. In this way, the institutions of private property came into being. Again, private property could be possessed by a such person who was prepared to safeguard it. By and by, in this state of affairs, tribes and clans came into the picture resulting in segregation. After this, groups were formed and leader came into existence to safe-guard the interests of these groups. Later on, these leaders became chieftains and ultimately kings. Instead of safeguarding their clans they safeguard their own interests. I remember the remarks of a minister when he said that, even in this regime today when a magistrate is appointed, he side receives these orders that in addition to his duty, he will do this thing-he will do

that things. Finally it happened that he would only perform “ the duty in addition” while forgetting his main duty. Similarly, the said leaders forgot their real duty and discharged only “the in addition” work, i.e. the safeguard of the benefits of corporate habitation cooperative production and distribution thereof, was given up and the institution of private property was established. Afterwards, they became gangsters in consequence of making and safeguard of private property. This further resulted in strife between them which made appearance in the form of wars. They gained the upper-hand they thus subdued the oppressed people and maddened by power, they turned into tyrants. While nothing this theory, it will be found that monarchy was established and kings came on the scene.

This all is responsible for the change in the means of production that resulted in wars and in the establishment of landlords and capitalists. When the society establishes a system, it is not important in whom the Government is vested but how the means of production be owned in accordance with the demands of the people. Those familiar with this principle know that formerly there was joint property system and with the establishment of private property system, when the people were capable of cultivating the land, there came slavery followed by serfs. Gradually feudalism was get up. Sir, the point is that if production had reached the present standard scarcely, would anybody have challenged feudalism. So far as personal rule is concerned , it had a great hand in establishing landlordism and Zamindari system. But, as Qaid-i-Azam said that with the introduction of finance capital, the termination of feudalism and inception of capitalism is essential. Thus it is necessary that the values of feudalism and personal rule should undergo a change and as such feudalism cannot exist in any country of the world. The introduction of finance capital caused great complexities in the use of productive methods and the right and even distribution of its produces. As a result, as I have already submitted, capitalist system came on the scene which was maintained by small imperialist stages existing in the form of Rajas and Maharajas; obviously giving way to colonies and leading thereby to colonial wars, and culminating ultimately in imperialism followed by wars. Thus of late feudalism became obsolete on account of scientific

development which revolutionized the methods of production. When the system is already defunct the institutions in question which were the off springs of the unjust the society created to serve as tools for maintained the said system should also be wiped out. So there is no justification development whatsoever for the maintenance of such institutions. The scientific development has necessitated the inception of a new system in order to adjust the production to the demand thereof. Now the circumstances demand the change of feudalism into a new system into a new order. If a peasant whether a Hindu, a Muslim, a Bodh or a Sikh, understands that, despite the hard labour which he puts into till the land, he does not get cloths and even square meals a day while a other country folk possess sufficient food, have sufficient capital to educate their children and possess even aeroplanes, necessarily he must, regardless of colour, religion and race, oppose such a system. His success is conditioned by a firm and an unswerving feeling and high sagacity. He must not depend on suggestions which represent his sentiments and must not wait for recommendation to be made in the House which may be put in proper or improper way. Only those people as I said just now are mislead by distorted words in the Houses who are not sagacious enough. If , for instance, this committee had not recommended the termination of hereditary rulership, would the institution of rulership be than deemed proper ? No judicious person of the world, possessing human desires, will advocate delaying the liquidation of the system till the setting up of a new order. Due to the absence of a firm feeling, in the people of some countries of Asia, the support of arguments and constitution is still felt necessary. There is yet possibility for discussion in some Houses. As said by Qaid-i-Azam that if monarchy had been useful, nobody could abolish it-----who would say that strong guards placed at the doors of dispensed with when they are stationed there for protection of a lion or some wild animal. Now the people doe not live in jungles as they did in early times. The king does not defend the people any longer but constitutes a danger to then security of the masses.

The evens of 1947 in Kashmir proved it implicitly that the ruler is not a defender of the life and honour of anybody. But the system has now suffered

such a set-back that there is now no necessity of this Head because he does not discharged his proper functions but simply performs the “in addition duties”. He did nothing except to magnify his personal dignity and to conduct exploitation in order to preserve heredity and “self-aggrandizement”. But we don’t need this. Some friends would suspect this move and will try to attach a communal colouring to it. But on analysis of circumstances it will be found that it is quite incorrect and far from being real and true. Such people doe these things to promote their conspiracy. Some would endeavour to mislead Muslims by displaying affection for the Nizam while others would try and seek to enlist the sympathy of non Muslims by expressing that a dogra of Jammu belonging to this dynasty is affected /thought it is not a question removing a Hindu or a Muslim ruler. Such people have virtually no concern with their religion but for their personal ends and exploitation/they do make use of it . In fact the ruler and his stooges did never feel that the peasants and the labourers of Jammu and Kashmir were dying of starvation. The unity of the peasants and the labourers is spoken of throughout the world. If anybody tries to disprove this fact he thereby deceives the history of the world and his own conscience. Maharaja’s stooges existed not only in Jammu, Kashmir and Ladakh, but also in the whole State. Personally they could well make their both ends meet while the poor peasants and the labourers could hardly afford to have even one square meal. But we are highly thrilled to note that the recommendations made by the Basic Principles Committee are reasonable and sound.

May I, therefore, ask the members of the House whether they are inclined to maintain the institution in question even under the present circumstances? You have now to express your final opinion within a few days. You know this is a people’s movement for which the people fell victims to bullets and faced various tribulations. Now the necessarily has arisen for the leaders to examine in the light of experiences gained in the past after due deliberations as to how steps for the purpose be taken, History has given the verdict that the old is dead.....we alongwith it, unless we give birth to something new. The past is already dead and we have to give birth to a new order, which is to be carefully established so that

we also survive. We have returned to this House as their representatives by the people and it is our duty to recognize the verdict lies in recognizing the same. Qaid-i-Azim has accepted this with farsightedness and has guided us with these recommendations to obviate those defects which are antagonistic to public interests. We have to respect the sentiments of the people. Any person whether he is in India or Pakistan or Lake Success, will appreciate the truth underlying this issue. This is not question of maintaining or liquidating any dynasty, religion, colour and race but it is a question of continuance or termination of the old order. We have only to consider whether this institution is to be maintained or abolished. This question which is before the House and the recommendations which the Basic Principles Committee has made in its report are based on fact. This principle had been made public in 1947. Keeping in view the obsolescence of the system which has rendered it evident that the ruler of our State cannot continue due to his actions and in order to eradicate the relics of feudalism, we have to frame a principle. We have no grudge against anybody. It is the demand of the present age and also the verdict of history. As also stated by the leader of the House in lucid terms, the constitution of the State will be based on democratic lines "The Head of the State should be chosen by the people....." and should be removable when the people desire. The tenure of his office should be three or four years. During his tenure if he does not stick to the said principle, he can be removed from his office. India has recognized this principle that the office of the president will be thrown open to election according to the wishers of the people. When India has established a principle for herself that the president will be appointed for a specific period in a republican Government and even if he enjoys the confidence of the people during this period, he shall after this period have again to go to the people for securing their confidence on the basis of his work. Would there be than any sensible person who would not like the said principle to be followed here when he has already recognized it for himself ? I hope the powerful leader of India, Panditji, will recognize this principle for us.

With these words I support the recommendations with the request that these be accepted.

The Assembly then adjourned till eleven of the Clock on Wednesday the 11th June, 1952.

APPENDIX A

Interim Report of the Basic Principles Committee

While proceeding with the task assigned to it, the basic principles Committee has felt in imperative to seek a clear directive from the Constituent Assembly with regard to the basic character and shape of the future constitution of the Jammu and Kashmir State. In order to determine broad framework it is essential to know whether it will be based on the total application of the principles of democracy or whether the existing system of constitutional monarchy should continue. This naturally involves consideration of the future status of the ruling dynasty of the Jammu and Kashmir State and only a decision on this fundamental issue will enable the Committee to proceed further with the task of finalizing the principles of the draft constitution.

The Committee has carefully examined the nature of the title and claim of the Ruling Dynasty of the Jammu and Kashmir State, which it derived from the Treaty of 1846. The Committee has no doubt that the Treaty was the natural consequence of the British Imperial Policy in the India sub-continent which perpetuated and intensified feudal and autocratic rule in certain territories of sub-continent.

When the popular upsurge for independence compelled the British Government to withdraw from the sub-continent, the paramountcy exercised by it over these State lapsed and it was obvious that the iniquitous relationships which the British Government had entered into with the Indian Princes would automatically terminate. But the failure of the British Government to recognize a status of equality and independence on par with the status conferred upon the people of the provinces ruled by it directly, created an anomalous situation. While

in the rest of India, sovereignty was restored to the people, in the Indian States, it continued to be vested in an individual who was all along functioning under the protection and suzerainty of the British Government.

The people of our State, alongwith those of other Indian States, resisted this relationship which condemned them to bondage and feudal exploitation. Their resentment found expression in their organized struggles against this unjust and discriminatory treatment meted out to them. They sought repudiation of this ambiguous constitutional arrangement and demanded the right of self-determination for themselves, prompted by the same urges that had moved the people in other parts of India.

The outmoded and anachronistic character of the dynasty rule was brought to light sharply by the crises with which the State was faced in 1947. The general feeling of resentment against this autocratic system has corroded it such an extent as left no doubt in its futility and incompetence to ender elementary functions of guaranteeing the security of life and property of the citizens in times of a severe crises. It was, therefore, natural that this unpopular system should yield place to a representative form of Government; but the natural and magnitude of the emergency facing our State made it impossible to effect any drastic changes in the constitutional set up during these critical times. The people's representatives while tackling the difficult task of administration under stress of abnormal conditions had to function within the same work of the existing constitutional set up.

There was a major change in the situation when in March, 1948, the Maharaja had to entrust the work of day to day administration to a popular Ministry but it was soon obvious that this arrangement could not work smoothly and stood in the way of progress and development. Consequently, the Maharaja who was conscious of his erstwhile power and privileges, incapable of any adjustment to the changed conditions, was forced to retire and was succeeded by Yuvraj Karan Singh, who assumed the functions of a constitutional Rule acting in the advice and guidance of his Cabinet.

This was obviously an interim arrangement subject to examination and revision by a properly elected body of the people's representatives. Accordingly the Constituent Assembly came into being on October 1951, with sovereign powers.

The Basic principles Committee feels that the time has come when a final decision should be taken in regard to the institution of hereditary rulership.

After due deliberation and careful through, the Committee is of the opinion that the institutions of monarchy is the relic of the feudal system which was based on mass exploitation of the resource of a country and the labour of its people for the self-aggrandizement of an individual and a limited class of his associated. As such, the Committee considers this system opposed to the aspirations of the people for an untrammelled democratic order, the spirit of which is surging throughout all countries of the world. It strongly feels that he continuance of a monarchical system would be the imposition of an anachronism particularly when these monarchies are disappearing fast in many parts of the world under the compelling forces of history and social change.

It is the considered view of the Committee that sovereignty does and must reside in the people and all power and authority must flow from expression of their free will. The State and its Head, respectively, symbolize this sovereignty and its centre of gravity. The Head of the State represents the authority vested in him by the people for the maintenance of their rights. The promotion of this vital principle of constitutional progress makes it imperative that this symbol of State power should be subject to the vote of the people. The Committee therefore strongly feels that, consistent with the democratic aspirations of the people of the State, the office of Head of the State should be based upon the elective principle and not upon the principle of heredity. This would afford opportunities to all citizens to rise to the highest point of authority and position, with the support and confidence of the people. The spirit of equality and fraternity required by democracy demands that in no sphere of the State activity should a citizen be debarred from participating in the progress of his country and the advancement of its ideals and traditions. It is clear that the hereditary principles in the

appointment to any office of power curtails the peoples choice and to that extent, restricts their right to elect suitable person of outstanding merit and personal qualities to that position. The process of democratization will not be complete till the highest office of the State is thrown open to the humblest of the land and in this manner, the Head of the State will be repository of the unbounded respect, confidence and esteem of the people.

In view of these considerations the Committee feels that there must be a sense of finality about the decisions in regard to this fundamental issue. Accordingly, the Committee recommends that:-

- (a) the form of the future constitution of Jammu and Kashmir shall be wholly democratic;
- (b) the institution of hereditary Rulership shall be terminated; and
- (c) the office of the Head of the State shall be elective.

Sd/-	S.M. Abdullah
”	G.M. Bakshi
”	M.A. Beg.
”	G.L. Dorga.
”	S.L.Saraf.
”	D.P.Dhar
”	Piar Singh
”	Harbans Singh
”	Mubarik Shah
”	G.M. Hamdani
”	Mir Qasim
”	Bhagat Ram Sharma
”	Abdul Gani Goni.
”	Ram Devi.
”	Moti Ram Baigra.
”	Ram Piara Saraf
”	Mir Assadullah.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY.

JUNE, 1952

SRINAGAR , SESSION

Wednesday, the 11th June, 1952.

29th Jeth, 2009

The Constituent Assembly met in the Assembly Chamber Rajgarh Place, Srinagar, at eleven of the clock.

Hon'ble President (Mr.G.M. Sadiq, B.A., LL.B) in the Chair;

Discussion on the Interim Report of the Basic Principle Committee (continued)

Sardar Harbans Singh Azad:- in view of the detailed speech of the Leader of the House, I feel myself in a hesitant mood as to what I should speak and what not. While the leader of the House was speaking yesterday. I felt that ablest Barrister of the country was pleading a most important case of the country and that all of us were sitting in the House as the Judges of the Supreme Court to here it. After hearing the speech the Judges would decide the case against or in the favour of the learned Barrister. Although after this lengthy speech there is perhaps rarely any new point to dwell upon yet. I wish, to speak something move on this important issue under discussion.

Sir, we are taking a very important decision in the history of the State. This decision is quit in consonance with the Principle that the history is not made by the Kings but the people. This day is the most important day in the annals of Kashmir and such story of the history of the world occupies a very important place in the man's social and political history. It is the people along who change the course of the world's history and today we have carried the history of Kashmir to a new turning point and are taking the most important decisions. In connection with the matter under discussion the leader of the House has traced

the origin of the Institution of monarchy and indicated the States through where it has passed and the means which were employed for this. So far as the old history of India is concerned we were far more advanced in the art of Government as compared to other countries. When in other countries the monarchy was assuming its worst form: in that era the collective opinion of the people of India was more powerful than that of the King. The Hindu, policy held a very eminent position in the Vedic age at that time. Assemblies, Panchayats, Councils and Kings were being elected. If we closely study the history of the time we shall find that Kings are not hereditary but elected by the people. In this connection I would quote some sentence from the "Ancient India" by Majumdar and Dutt:

"Elective monarchies were perhaps not unknown, in the Atharva Veda and the great epic. However, we have several explicit reference to the election of the Rajas to the Kingship by the people and in the Rigveda itself the need of the people approval, if sovereignty is to be steady and un-vacillating is emphasized in the consecration hymns".

During those days a King had to swear on the occasion of his coronation that he would serve the country and the people faithfully. I would like to quote the next of the oath. How rigid were its terms. It is far more advanced than the oaths which are administered during the present times. The oath has been quoted in the "Discovery of India" by pt. Jawahar Lal Nehru in the following terms:-

'The King at the time of coronation had to take the oath of service to the people..... May I be deprived of heaven, of life, and offspring of I oppress you..... public work could not suffer or await the Kings pleasure. And if King misbehaved, the people had the right to remove him and put another in his place".

These words indicate that the king could not act arbitrarily. In the event of his proving incompetent the public had the right to depose him and replace him. This is a matter pertaining to the period thousands of year old. While quoting Hobbs, the Leader of the House had told the House how the outlook on monarchy underwent changes with the advance of times. I would like to refer the

Hon'ble Members to China of two thousand years back when the Chinese Philosopher Meniscus hold the opinion that if the King would act against the wishes of the people he should be removed that when a King would treat his subjects like dirt and grass he should be treated as a bandit and enemy.

The King was accordingly held responsible for all misfortunes of his subjects. Pandit Nehru has written in the "Discovery of India", Kingship, originally, become kingdom. As in China, the Ruler is held responsible for all misfortunes if anything goes wrong the fault must be with the King. There was a Council of Ministers and there was also reference to some kind of State Assembly. These references to popular revolt against unjust and tyrannical kings who are sometimes put to death for their crimes". How rigidly worded. This is that happened in France. Charles I was assassinated in Britain. What opinion was held in these days by the people about the King. Immoralities, tyranny and violence, assault on women and autocracy are bound up with monarchy and the history is replete with these instance. A reference to all these atrocities has been made in the book entitled the "Dawn over Samarkand" which describes as to how the king had ordered "fill the well with the human blood". All this which makes the blood boil is attributed to the Kingship. Leaving aside the question of personalities, religion, minority and majority, you may look into the history of the Middle east during the middle ages to find how tyranny and violence were employed to maintain the Kingship; son detaining father behind the iron bars. The eyes of real brothers were taken out. All this was done for getting the throne. In view of the bloody stories of slaughter connected with this system who could be the person who would favour this system. A system where so much blood is shed by one for getting fully intoxicated with the royal pleasures and enjoyments, dignity and splendour and where humane considerations are cast aside, has come to inherit the tradition of shedding more and more blood for sustaining itself which in itself is the strongest argument against it.

I feel when during the present times the Assemblies, Panchayats, Town Area Committees and all other remaining institutions are being constituted by public voting how the hereditary rulership can fit in this whole frame- work. This

will be illustrated thus. If we bring a car which has an old body but new spare parts it would not be a satisfactory state of affairs. How can it be possible that while every institution would be running on democratic lines the office of the Head of the State alone should continue on the basis of an obsolete conception. If old water is allowed to remain in a tank and no fresh water flows into it from any direction it becomes filthy and stinks. New members come to the Assembly and new ministers are formed. If the frame work at the top would be of the old type I think that the current of democracy would be stemmed.

If we would not move with the current we are going against the current of history. Sir, If we turn over the leaves of the history of the world we shall find that the history recorded continuous progress. Many kings disappeared as a consequence of popular movements. Neither the Sultan survived in Turkey, nor the Czar in Russia nor Napoleon in France. The question of religion does not arise in this connection. The Christians of Russia finished the Czar. Muslims dethroned the sultan of Turkey. Although the Sultan of Turkey was recognized as the temporal head of the Muslims yet the Arab countries participated in the war against the Turkey. The Kings of Europe disappeared after the World War II. Since the trend of the world is in this direction we are also going alongwith it.

Sir, today we are not doing something new. In the old civilization of India and also by studying the civilization of China our friendly Country. It will be reveled that the Kings were elected during those days also. Public opinion was so powerful that a king could not do any thing against it. A king had to act in accordance with the public opinion as the collective opinion of the people is more powerful that the authority of the King. As a rope is made by uniting fibres and a lion can be tied and dragged by it similarly public opinion is much more powerful than the king. Shankar-achariya has written in the Niti-Sara in the tenth Century. "The king was to act in accordance with the opinion of the majority of the people. Public opinion was more powerful that the king as the rope made of many fibers is string enough to drag a lion ". Sir, I was stating what the background of the Rajas was in the India History and what their history was. There was a period in the India history when the East India Company was to end all the Rajas,

Maharajas and the State as a matter of policy. But they were consequently public opinion will muster strength and you will be driven out of India. You should therefore, give up the policy of eliminating the States and maintain Rajas, Maharajas. They will fight your battles on the front and be serviceable to you”.

In this way the Britishers made thousands of Bengalis fight against the people of the U.P. The people recruited in the U.P. were set against the Punjabies and the Punjabies against the Christian and this generated hatred among them against one another. If a Christian was defeated he held the Purbi responsible for it. I have in my possession the statistics of mortality of the Europeans and the natives in the battle of Subrawal to which a reference was made by the Leader of the House yesterday.

Now, that the patron and master of Rajas of India has gone for good how can this system survive. There used to be a body constituted of the Rajas, and the Maharajas of India known as the Chamber of Princes, whose president was designated as Chancellor who used to be elected. In face of this how can they argue that the rulership should be hereditary. This system involved intrigues and fraud. The role which this chamber played in the freedom movement of India is not hidden. On every occasion it aided the British. While adverting to Maharajas Gulab Singh and the Punjab I would express myself on a system. I do not wish paint Gulab Singh black and neither do I wish to drag this debate down to a low level. So far as this system is concerned in describing its defects it becomes necessary to state what one does to gain dignity and splendor and throne and how he pushes the country into war to serve his own ends. I am quoting a person who has written a book in 1948 entitled the “History of Sikhs”. The book was with me yesterday but it is not today (Laughter). The name of its author is Mr. M. Greger who was serving as a surgeon with the Fourth Light Infantry of the East India Company, Greger has written about Raja Dhain Singh. Mr. M. Greger in the History of Sikhs Vol. II says “but it might easily have been anticipated that in the event of any disturbances in the Punjab, he (Gulab Singh) would not be slow in seizing an opportunity to aggrandizing himself” and Col., Gardner who was a principal confidant of Raja Dhain Singh writes:-

“Being as I was the Commandant of Raja Dhian Singh’s artillery and high in his confidence, I was closely connected with the event which I am about to describe. The dream that Hira Singh the heir of the family or at least the most promising of its rising generation might eventually succeed to the throne of Ranjit Singh. Those to be swept away were the male members of the Maharaja’s family and all those Ministers and Chief would not favour the Dogra Party. All the murders were brought about directly or indirectly by Raja Dhian Singh and Gulab Singh for the eventual aggrandizement of their family in the person of Hira Singh”.

This is a dark side of this system. I do not want to take much time of the House. The Leader of the House has mentioned the Hindu Muslim policy touching upon the earlier history of Islam and the Hindu polity to show the Kings or Caliphs were elected in the beginning I wish to state something about the Budh polity. Prof. David writes; “if we look into the History of the Budhs of that age it will be proved that during that period also there used to be a parliament as at the present time with a President, a Vice-President and a Speaker. Their was a practice to have a Chief Whip. A regular motion was introduced to decide an issue and action taken”. As a Bill has to go through three reading during the present times there were also only three readings in those days as well. Opinion used to be ascertained by ballot. A Raja was called a “Gana Raja” which means “Republic Ruler” indicating that there was the conception of republic in those days. There are four communities in this country. There are some people who would examine this matter from a religious angle. As stated by the Leader of the House the system of election was vogue in Islam in the beginning which yielded to monarchy subsequently. Election was held in the Hindu Dharma in the beginning but monarchy was established later. So far as the Budh religion is concerned it was a step ahead of them. I will now make a brief mention of the Sikh polity. Sir, after Guru Nanak the Guru’s Gadi was not inherited by any one among his sons but it went to another Guru Angad Dev, he did not belong to Guru Nanak Dev Ji’s family nor was he related to him. His daughter expressed her wish that the Gaddi should remain in the house from which the Third Guru

should succeed. He explained "the Gaddi is nobody's personal property but is held in trust on behalf of the Panth". When Guru Gobind Singh had made "Five Piaras" drink the gulps of the nectar he said, "you should now let me taste the nectar from your hands". Guru Govind Singh preached the principle that the Guru forms 20 parts while the sangat 21 parts.

Sir, the present world has much advance. The history is in reality not the history of a Raja or his wars. It does not make the history that the son of a Raja succeeds his throne. The actions of the people and to put up with application. If anything resulting there from make the history. How the people have attained progress in social-economic, religious and literary life it makes the history. We have also to play an important role in the history of our country. We have enforced the Land Reforms in Kashmir ended Jagirdari and Chakdari and are now liquidating the hereditary right of rulership .By this decision we are guiding a very big part of Asia .I would like to know the number of the countries in the world of 2000 million souls where the monarchy is still maintained. The number of such people as are governed by kings is very small. By taking this decision we are going with the majority . The time is not far off when the monarchy would be merely a fiction and not a reality. On the basis of the facts stated above I support the motion of the Hon'ble mover.

Hon'ble Pt. Sham Lal Saraf:- Sir, in support of the proposal which the Leader of the House submitted to this Assembly yesterday on behalf of the Basic Principle's Committee, I submit that the Committee's report involves three principles which have been placed before the House for consideration. They are:-

- (a) the from of the future Constitution of Jammu and Kashmir State shall be wholly democratic;
- (b) the institution of hereditary rulership shall be terminated; &
- (c) the office of the Head of the State shall be elective.

Sir, so far this question is concerned, I should say that the democracy of the world is based on these very principles which have been made clear in his speech by the Hon'ble Leader of the House. I do not want to touch that aspect of

the matter. We should try to understand with the intelligence of a common man the real aim and object of democracy about which speeches are being delivered since yesterday. But it has been stated further how the rulership originated and attained the stage of the kingship and how subsequently the cry for democracy was raised in the world and the democratic regime began to pervade everywhere in all the countries and cities of the world. So far as the kingship or rulership of the country is concerned, I submit that the kingship has been in vogue in India since hundred years. Everywhere or in fact where there is a king, the voice of the people does not reach him whether he is great or small and neither the views of the public can reach him. Whether the king is great or small he will do what he likes irrespective of any consideration whether it should be conducive to the public good or detrimental to their interests. He is incapable of considering whether or not he had public support to any decision taken or the law framed by him. This had the inevitable result that movement started against him in the world and the tendencies of the people towards democracy got a fillip. I, therefore, submit that there was a time when the system that the King should rule the people was recognized in the world with the advance of time the thinkers came to realize that the Kingship was not conducive to good Government and neither could it achieve the objects of the public nor would the people benefit by it or the country progress. The thinkers and the leaders of the people therefore came to the conclusion that so far as kingship was concerned it could truly represent the public and that no measures could be taken for the good of the people and the country so long as the authority remained vested in one person. Movement were accordingly stated in this connection. You may look into the British or the Indian history and you will find that, no doubt, our country remained connected with the English. The regime of democracy began in their country from three hundred years. But the fact cannot be denied that their connection was not confined to democracy they progressed. The thinker of our country also considered that with a view to accomplish it we should start from the base and the Government of the country was established on democratic principles. These steps were taken for the good of the people with a view to

associating the public opinion with the administration of the country so that the country could be put on the road to progress. During the course of his speech Sardar Harbans Singh Ji has stated that, it is clear from the Indian history that thousands of years before that used to be Panchayats and the administration of the country was in their hands and the kings were also appointed by the people. Therefore, if we take up this very system we can also come to the same conclusion and efforts were made from all directions that there should be the peoples. Government which along can ensure the progress of the country. Some years before this day, a movement was launched under the leadership of our chief. We struggled against the Government about the future form of Government of the country. The National Conference prepared the plan of the "New Kashmir" in 1942 and the regime of democracy began in the country. Principles were framed and translated into reality, which resulted in the formation of the National Government. The difficulties in which that Government was formed are manifest of all of you. But this Government did not ignore its democrat policy. A Panchayats Act was passed and institutions were established for the local self Government in the different parts of the country to enable people to make their own arrangements themselves. This is a great achievement and also a power. We had deliberated and already arrived at the conclusions some ten or twelve years back in regard with principles which will form the basic of the future Government of the country in which the principles adumbrated in the new Kashmir would be binding and a Constituent Assembly would be created in conformity with three principles where decisions would be taken about the democratic government. We have got that Assembly now. Previously the Maharaja was considered the fountain head of authority but the conditions are now changing fast and the time demands that the democratic principles should be adopted and made our own. For this reason we are today sitting in this Constitution Assembly and considering what basis the future government of the country should be. We have given every individual in the country the right of expressing his opinion in shaping the country and leading it to progress. How can the autocratic government of an individual function here. Today your elected

representative who constituted the Basic Principles Committee have represented certain principles to you. We have to affix our seal of approval on them and accept them because without them we could not get the thing we are in search of. You are already aware of the shortcomings of this despotism. There is no respect for public opinion in autocracy. The people are not consulted in shaping the country. Today the public are electing their representative and they are responsible to them. In that connection how it can be practicable to that the authority to govern should remain invested in the dynasty ruling from generation to generation. This is now impossible. On the contrary it is essential that we should appoint the head of the state in such a manner as would ensure the support of yourself. Myself and the representatives of the country. It is only there that the head of state can be called true representatives of the country and the democratic system of government can operate. The Rajas, Maharajas and Nawabs in India were so far governing under an autocratic system. They had no work to do but they had large incomes and wielded great authority. This degraded them to a great extent and they forfeited the sympathies of the public. The Britishers used to say that native states had their own Rajas. But these Rajas never realize that they were inhabitants of the same country and those whom they ruled had belonged to the same soil. If the comparison of any of the then Britishers Indian provinces were drawn with any State you will find that the Britishers who bled India white have certainly done one thing or the other for the good of the people of such provinces. But conditions which obtained in the State are not concealed from you. How these States came into existence had already been clearly explained. This was merely the policy of this British. The British followed the policy of divide and rule. They created big Jagirdars and Zamindars on the one hand and on the other class divisions and Hindu Muslim divisions and what not. Thus they divided and ruled I have so far had the opportunity of visiting many Indian States. But I would say that there was not a single instance in our country where any Raja or Nawab may have taken any steps towards the educational progress or betterment of the lot of the people of his State. Their mode of work caused a great distress to the country. It is therefore essential that

we should unanimously adopt as our own the principles under our consideration. So far as our country is concerned, its constitution will be on democratic lines. The second principle. Under consideration relates to the abolition of the hereditary rulership. On the one hand when we are applying the democratic constitution to the whole country. I fail to understand how on the other the hereditary rulership can be maintained. To do so would militate against the democratic principles. In such circumstances if the ruler be lame, crippled blind or incapable he will think that whatever may happen since he is connected with a certain dynasty he has to rule. But this is out of tune in the present times and is incompatible with the modern principles. How can it be possible that the Ruler should entertain a notion that to him and that he is not concerned whether the country is benefited or not. You have noticed that whether in this country or any other country when democratic Government is established the Ministers or the Prime Minister who are appointed can be removed or reverted within minutes howsoever great leader of the people they may be, if they do not co-operate in serving the people.

If a prime minister does not prove fit another person can be appointed in his place at once and thus opportunity offer itself to some other person to become a prime minister. In this way a wave of confidence sweeps over the country. This cannot be possible where the hereditary system of rules obtains. The right course is that the country is served and the public benefited. There are forty lakhs of people inhabiting in our country and there is one king. If the public do not want him how can it be possible that he should not be removed. The time demands and this principle is also in keeping with our constitution that the constitutional head of our State should be elected and not be hereditary so that the head of the State be the person who would be a representative of the public and none else. If a king is imbued with the spirit of service to the country the public should elect him of their free will. If we like he can be appointed, and if we don't approve of him, he can also be removed. I may submit that this is an important thing and is bound up with our principles. What should be the object of a Government. It is the regime of democracy on the principles of which we have

laid the foundations of our constitution . we have been fighting against capitalism and exploitation since many years past and want to end them. Every man in the country should be provided with food and clothing. Every citizen and village should have equal opportunities for educational progress. These are very high principles for resolving this problem successfully. There should be public representative from to bottom so that they may consider the views of the people and satisfy the needs of the country. If we shall have rules on hereditary basis I feel that the improvement which we propose to make cannot be elected satisfactorily. I submit that we are desirous of right principles which we had all along been visualizing and for which we have now come to the Assembly we have to consider what to retain and what not to retain, even if that the highest. This is our fundamental principle and on this depends our economic and political progress. I therefore, think that we should accept the interim report which has been presented. Whatever action has to be taken under it should be taken within the shortest possible time. With these words I support the proposal moved by the Leader of the House.

Mr. Abdul Ghani Goni:- Sir, before I speak something on the report I would like to congratulate the Leader of the House not only on the views expressed by him today in his present report which has been submitted to this House on behalf of the Basic Principles committee but because he is the same person who had raised the slogan of "Quit Kashmir" in 1946 and had to appear in the court as a rebel art a time when the Government was not in his hands and he did not have the sympathies of India to such a large extent as he has now. At that time he had displayed great courage when he had submitted his statement in which he had expressed that he wanted to free Kashmir from the Monarchy as this was the right of the public. In those days when as a rebel he was answering the charges in the court and had submitted his statement in which he had urged that everybody was entitled to freedom as a right were compares which the present it will be found that the same statement has been presented by the Basic Principles Committee in the form of its interim report so far as this report is concerned the Hon'ble members have thrown light in different ways on every

part and word of it . I consider it proper that I should answer on the basis of the Law the criticism that being leveled since the commencement of the debate in this House concerning the land reforms in the State and considering whether any compensation was or was not to be paid for the lands expropriated from the big landlords. At that time also the same objection that this Assembly was not competent to deal with the matter was raised. I had read at that time also and it has been urged in the editorials of certain communal papers of India today also that this Constituent Assembly is not competent to decide about compensation and the future of the ruling dynasty and it will be ultra vires of it to do so. I, would like to say that so far as the compensation for land is concerned you already know that despite the great opposition from Zamindar class several lakhs of kanals have been distributed among some lakhs of cultivators and no power on earth could interfere in this because we had taken this step which is also ultra-vires of this Assembly. So far as the question of taking decision about the royal dynasty is concerned it may be stated that this dynasty ruled this State for the first time 106 years by virtue of the sale deed of Amritsar (I shall not call it a treaty but as sale deed) which was a contract between the British and Maharaja Gulab Singh. It conflicts with the provision 14,15,16 and 17 of the Act known as the Indian contract Act enforced by the British Government as a law for the people. As was explained by the Leader of the House certain misrepresentations were made in the treaty which was concluded between Gulab Singh and the British. This was a fraud. The outstanding feature of the treaty was that it involved coercion as the Government of this place was handed over to a single individual against the wishes of the people of Kashmir. It is essential for an agreement under an Act that it satisfies the basic essential of the Act and there is no misrepresentations, fraud coercion. So far as the treaty of Amritsar is concerned it was concluded in 1846 for the paltry consideration of 75 lakhs Nanak-shahi rupees. All the three sections of the law were ignored in it and the essential elements were by-passed. The sale deed of Amritsar mutates against the fundamental intention of the Indian Contract Act which was framed by the same British Government for the people here. Subsequently the critics, the reactionaries and the Indian

communal newspapers published later on but also the defenders of the capitalist order and their agents and other foolish friends who are delivering speeches criticized in India that we are a people of doubtful integrity and challenge the sovereignty of the Assembly. Where does sovereignty actually reside? I hope to make certain submissions in this connection here which will make it clear whether this Assembly possesses sovereignty or not. If it does, whether this Assembly is competent to decide the future of the ruling dynasty. I do not want to repeat the history of the ruling dynasty and neither the acts of tyranny and oppression of the Dogra Rulers. But I wish to state that the Ruling Dynasty cannot continue without the consent of the public. I shall first of all take up section 370 of the Indian Constitution Act. The purpose of including it in the constitution was that Kashmir would be a free country and could not decide its internal matters through an Assembly constituent by it. I should state for the information of the critics that a Government has two kinds of function to perform one internal and the other external. So far as the external function is concerned, as has already been stated by the Leader of the House, we have acceded to India and entrusted it with our external affairs. The consideration that India and entrusted it with our external affairs. The consideration that India was a great power or had a population of 35 crores has not led to this accession but that a principle was followed there which the 40 lakhs people of this place have adopted their own. Under this principle we have entrusted the Government of India with the external affairs of this state for the good of the people and the State. So as the internal functioning is concerned the sovereign head of this State comes under its purview. At present the Government of this place is not that of any capitalist. A regularly constituted parliament is functioning here. What are internal functions of a Government, I shall quote Hume in this connection. He has written a detailed chapter on it but I shall give you a gist of it. I shall begin then with internal functions of the Government.

Here the establishment and administration of law as admittedly the most important and to this accordingly our attention will be first directed Hume indeed asserts in a well known essay that “ we are to

look upon all the apparatus of our Government as having ultimately no other object or purpose in the distribution of Justice, or in other words the support of the Twelve Judges. Kings and Parliaments, Fleets and Armies, Officer's of the Court and Administration, Ambassadors, Ministers and Privy Councilor are also subordinate to this part of Administration."

I have stated and this also conveys that the king is also subordinate to the administration of internal affairs in which he is included. Any Kingship, parliament, Fleets, Rulership or Courts etc. is a country in fact all of these fall within the Jurisdiction of the internal functions of the Government. This means that all the institutions here are covered by internal fractions of this Government. The Kingship or rulership on which we are taking decision is included in it. If any one would say that this is being done because the present Ruler is connected with a family he is actuated by sentimentalism. Under this communal sentiment this step of the House is being declared as ultra vires. In the editorial note of an issue of a standard paper of India it was written that this House had no such authority. I should state in this connection that even the constitution of India allows us the authority to decide about the Ruling Dynasty at present under discussion here. Shree yuvraj the Head of the State also same days previously in para 3 of his address to the Legislative Assembly has said about this House to which I invite the attention of the House. These are his words:-

"A sovereign body in the shape of Constituent Assembly which will pronounce its final decision on vital problems, affecting the future of State". Sir the section of this very Ruling Dynasty who is at present the Head of the State recognizes in the address the sovereign character of this House in the State. For the satisfaction of the irresponsible element who contend against the sovereignty of this House. I shall therefore give another quotation from page 630 of the Element of Politics" by Sedgwick:

"I think we must admit that there is, for this reason a certain sense in which the mass of the people on any country may be said to be the ultimate depository of supreme political power". So far as this reference is concerned it

has also been recognized therein that in country the people are the repository of sovereignty. Besides Mr. Austin in his. Theory of Jurisprudence Vol. Ist has clearly elucidated in chapter 6 at page 204. These are his words:

“in our country the sovereign or supreme body is the numerous body of the commons The commons exercise through representatives the whole of their sovereign powers.”

Austin has made it clear in his theory of Jurisprudence that the sovereignty of a country resides with its public. The public can get such authority exercised through their representatives. By acting in the way we do freedom will be ensured not only for this country but the forty crores of people of India. That individual Mahatma Gandhi, as mentioned by our leader of the House had on his way back from Kashmir on the 16th August, 1946 expressed in Delhi that he had not the least hesitation in saying that the will of the people of Jammu and Kashmir would be the supreme law of the land. So far as the statement is concerned I would say clearly that the people of Kashmir had declared twenty years back that whatever be the will of the 40 lakh people of this place that would become law and this is also the right of the people of the place. Besides that great person referred to above who is recognized not only in India but all the world over has recognized the right of the people of Kashmir to frame the laws of their voice, so far as the extract of the statement reveal I should say for the information of these who wish to oppose the Sher-i-Kashmir in this revolutionary measure that the Sher-i-Kashmir would not at all care for those elements. Since he has not only for the interference from Pakistan but that of the United Nations as well. While they had wished that this representatives body should not come into being they put many hindrances in the way of creation of this Assembly. They had wished to impose their decisions on the Sher-i-Kashmir and the people of this place in order to give a set back to his sacred aims. Notwithstanding such opposition you have assembled here due to the authority of the public and are taking the decision that sovereignty is the right of the people. Therefore I would tell not only that undesirable element but also Pakistan and the Security Council that we would not care for the State should not rest until we have taken the

decision that the Head of the State should be elected in future. Since frontier of our State of Jammu and Kashmir meet those of Afghanistan, Pakistan, India, Asia, China, Russia and Tibet is all the more important that today this House under the leadership of the Qaid-i-Azam represents the forty lakhs people. In making a new history by this decision today we shall guide the thoughts of the people of the place along the right path. With these views I strongly support this motion.

Hon'ble Major Piar Singh:- Sir, the Report of the Basic principles Committee of which I was one of the members was read out by our Qaid-i-Azam, Sher-i-Kashmir in the House. I would also like to express my ideas in regard to the facts which formed the back ground of the recommendations made in the report on which certain Hon'ble Members have already spoken in clear terms. One of the recommendations made by the Committee is that the Government of the State should be wholly democratic. The second relates to the abolition of institution of the hereditary rulership of the State and the third to the institution of the office of an elective Head of the State for the future. Being impressed with these three recommendations which were made after full deliberations by the Committee I signed the Committee's Report. In this House also subsequently many members have also stressed that the Government of this State should be democratic and an elective constitutional Head should be substituted for the hereditary sovereign. Our Leader of the House has fully explained that sovereignty is the right of the people of this country revolted against the Government and non co-operated with it. There were repeated disturbances and demonstration of displeasure throughout the country after 1946. At long last an organized rebellion against the Government occurred in 1946 and that order which had the support of the British could not survive. Foresight was not displayed in meeting the situation. The right course was to take the representatives of the people into confidence for solving the problem facing the country. But what was happening, report from time to time were being sent from here to the gurus outside and action taken accordingly to their instructions. To cut the matter short the sentiments of the people of this place were not being

respected. But when, however, a catastrophe overtook the country the Government collapsed. The sincerity the proof of which was given by people of this State particularly their leaders for gaining the freedom for this Country is manifest to all. I have personally observed it as I was working as a Brigade Major those days. It had thrilled us when small boys as soldiers were challenging us "Where are you going at this time of the night". I had realized that in organization really lies the strength and when conceptions may have changed no government can stand without the will of the people and the very principle which conceded sovereignty to the became operative. As a result the representative government of the people was established and the old constitutional ended. The autocratic Ruler was assigned the position of a constitutional Ruler. The representatives of the people expressed their wish to extend their co-operation without any personal rancour. But there was no possibility of any change in the Ruler bred up as he was in the old environments and this left him unmoved and he could not adopt himself to the changed conditions. He should have moulded himself according to the needs of the time and worked in co-operation with the representatives of the people regarding the people of this country as his brethren. He did not do so and had perforce to quit this place. Subsequently his representative became the sovereign here. As the Sher-I-Kashmir has stated, he in the course of four years fully represented the feelings and sentiments of the people and also co-operated with the public leaders. The Constitution Act was, however, amended and by virtue of this the people have completely become sovereign. Now the question arise whether the office of the constitutional rulership should be the exclusive hereditary right of one family alone or it may be filled up by election which is the just and equitable method based on the principle of equality. My personal opinion in then matter is that when the people do not approve of the hereditary institution of the Head of the State it is not proper to continue the office of the Head of the State as a hereditary one. Recently when the Raj-Pramukh came to address the Assembly in Hyderabad 95 percent members staged a walk out as a protest to indicate that they did not want him there. Such conditions could obtain here. If the majority

does not like that the constitutional Ruler should hold press for the hereditary Rulership but should in co-operation with the national leaders, who have suffered hardships and effected incredible improvement in the country during the four years, say "I am with you. Given me any work whether it may be of the Tehsildar or the Commissioner". I feel that nothing can be done without the will of the people. It now remains to be seen what is the will of the public here. The world knows that the biggest political party in the State is the one which is headed by our Prime Minister, who has stated on the basis of historical facts that the public do not like the hereditary rulership. Without this party there is no other party worth the name. Yes, it is said that there is a party in Jammu named Praja Parishad. Its popularity could have been gauged if some members from it had been returned to this Assembly. There would be only a few among them who swept by sentimentalism may be in favour of the hereditary rulership otherwise how could the public say en-bloc that this office should continue on hereditary basis. The Qaid-i-Azam has stated that no body entertains any rancor against Jammu. The people of Jammu are as much the nationals of this country as we are. Particularly the present constitutional ruler is also a national of the State. He may perhaps be more capable than us due to good training and it is possible that he could serve the country well. But first of all he should win public confidence and then he can be chosen as the Head of the State. Otherwise it would not look proper or be in keeping with his dignity that while seated slogans may be shouted as was the case with Nizam. If five people support the Raja and four are with his A.D.C. and the rest of the country want freedom and support the representatives of the country it will strike at the root of the solidarity of the country. Many people say that this revolution should come, but those who have to some extent remained connected with this dynasty and have profited from it in one way or the other may perhaps not be in favour of a such a thing. I should like to tell them also that steps should be taken as dictated by the larger interests of this country and that of India. They should realize that any such group which is nearly a handful cannot influence the majority. They should think of repercussion

of it in India and shall have to put an end of tendencies for division. They should keep a way from these words I support this resolution.

Maulvi Moh'd Ibrahim Shah: Sir, Askardu, Kargil and Ladakh had their own Rajas who were Independent. Subsequently during the rule of Gulab Singh, Zorawar Singh attacked and annexed.

Our country to form a part of the State. Nothing was left in the possession of the Rajas of our illaqa who fought the Dogra Rulers then. But adequate Jagirs were left with those Rajas who co-operated with them. Some of the Rajas of Askuardu can be listed with the Rajas who proved traitors but the Rajas of Kargil, Samakache and Ladakh gave a tough fight and a small Jagir was left with them after they had been vanquished. To-day when everywhere autocracy is being terminated it become necessary for us to ensure that we do not want any thing connected with autocracy to stand in our democratic path. After all even sheep, goats and birds are free to roam about and it is therefore all the more necessary that man should be free. In supporting the report, I, therefore, submit that we should be completely free from autocracy.

Master Gulam Ahmed: Hon'ble President, I would like to state a few words while supporting the motion moved by the Leader of the House in connection with the recommendation made by the Basic principles Committee in their report to the effect that the office of the Head of the State should be filled up by election. Sir, the Leader of the House, Quaid-i-Azam, Sher-i-Kashmir, has stated the facts in detail from the early period of the history to date covering all aspects of the background to this report. It does not stand in need of being supplemented. Besides, the members of the House have left no aspects of the matter untouched. In continuation therewith I would only make a brief submission. This is an admitted fact that freedom and the right of self-determination are natural and birth rights of a human being. Whenever during any regime or age co-operative forces or exploiting elements wished to usurp this right, despite freedom loving people offered the greatest sacrifices to preserve it. Sir, history is replete with instances of sacrifices made in different countries like Russia, China, and Turkey to end this absolute and worthless

system of autocracy. Without going into these historical details, I would like to state that every age autocracy has proved for the people nothing less than wrath of God. Two thousand years or two hundred years may have passed, it may be the present age or hereafter, whenever and wherever such an order would be established the people of that place cannot progress, but would be falling victims to oppression and autocracy of the exploiting elements. Sacrifices will continue to be offered in every age to change this order. Sir, there is nothing new in this. Sir, as was proved clearly by the members that if religious principles are kept in view, this natural birth has to be maintained at any cost. Sir, even the people of Arabia whose name was synonymous with savagery and illiteracy which had become proverbial in the world. When that spirit was extinct in them they came to hold the belief that the sole purpose of their life was to maintain the hereditary rulership and struggled hard for it. When prophet Mohammad, the founder of Islam was born he preached tolerance, brotherhood, equality and mutual love with a view to change their superciliousness and generated that feeling in them with the blessings of which they established a new democratic order after terminating the old one. History bears this out and everybody knows that how afterwards that every nation which had symbolized savagery and illiteracy in the world came to occupy within a short period the front rank amongst civilized nations of the world. Sir not this much alone, even after passing away of the Redeemer of the Universe such an administration was current there in the period of "Kalfai Rashdin". That nation which was illiterate proved itself the leader of the nations in the world of the civilized nations. All that was only due to his blessings. We have also exerted most of adopt this principle as our own. Sir, the Mughal Emperors paid little attention in Aiwan-i-Am and Aiwan-i-Khas to preserve their throne. On the contrary our Redeemer of Universe established a just and progressive Government, although the kingdom was not much extensive in length and breadth. He was talking decisions on Government business seated on a mat under a tree or in the Court Yard of a mosque for changing the fate of the nations of the world while the Mughal Emperors used to spend enormous sums for the discharge of this ordinary duty. Had this sum also been spent on

the works of public of India would have occupied the front rank of the civilised and progressive nations. The objects of the construction of the buildings of this kind are that they serve as monuments. The object of incurring expenditure on a country and nation is best served if it results in improving the lot of the nation which leaves its imprint for ever on the minds of the people.

Sir, there is no need for us to take up the old past, I, would like to draw the attention of the House to the Indian States. It might have struck you how during the British period these princes who were the products of British imperialism and played the role of Ministers in it to maintain its authority and political administration to fill the State Treasury with the hard earned earnings of the labourer, the major portion of which was spent to cater the enjoyment of the Maharaja, the Nawabs and the Nizams. In contrast to this a very small sum was spent on public welfare. Consequently the public of the State who comprise nine crores of out of the total began to die due to hunger and poverty. As a corollary to this the Sher-I-Kashmir diverted his attention to this problem for which he alone must get credit and the leaders if India simultaneously lent their support to the proposal of the Sher-I-Kashmir. Sir, in connection with this hunger and poverty I would like to narrate a story. Once upon a time famine occurred in a country and the people of this place approached their king complaining that they were dying of hunger. The king enquired what was all this fuss and nonsense about. But fortunately there was also the prince heir apparent who was to become the king in future present there and he asked the wazir "Are these people not getting pulao" ? Do these sufferers not get milk and boiled rice as substitute, nice grains could, not be secured during the famine". In the opinion of these rulers is it any extraordinary thing for the people even to get milk and boiled rice. Sir, this was the state of affairs. These people in no way left for the sufferings of the public. Therefore, if during this age the office of the elected ruler is declared hereditary it is possible that the public may get into trouble. You yourself know that they have done for the public. Education was not promoted and neither any canals were dug in the famine stricken areas. In contrast to this you can see for yourself that our Government inspite of the fact that it was

passing through a delicate period stood on its own legs after fighting the calamities with great difficulty. But notwithstanding all this the popular Government, spent with in these four years so much amount on roads, canals education and other works of public utility as could not be spent by the old Government during hundred years. If that Government dug canals at that time it was for the Chakdars because these people were the agent of the imperialistic Government. Therefore in order to improve their conditions and to maintain authority the works of such nature were executed. But nothing was done so far as it related to the public good or the means of communication which could benefit the people in general. My submission is that it would have been better if this agent of imperialistic Government had been liquidated two years earlier for which steps are being taken now. You are seeing today that the four hundred States have been liquidated in India and the people of those States have support it. The public of this State also wish to enforce if practically by substituting democratic form of Government for personal rule. They have realized that it will be a mistake if it is delayed. There is nothing personal about it but this principle relates to the public good. This will ensure the preservation of the right of the people. They desire that this order should change and give place immediately to such an order as will conform to the wishers of the people voiced by the Committee in their report and elucidated by the Leader of the House in its Statement. I also wholeheartedly support the motion.

Note:- The House then adjourned for lunch.

After Lunch.

Kh. Ghulam Mohi-ud-Din Hamdani:- Sir, I think it would amount to merely wasting the time of the House to bring under discussion the view points which Kant Hegal, and other thinkers have held on the Kingship in view of the Commendable ability with which the Leader of the Revolution Sheikh Mohammad Abdullah presented and reviewed the historical, ethical, moral and

legal aspects of the recommendations regarding the termination in the State of the existing hereditary dynasty submitted by him to this House on behalf of the basic principles Committee. Therefore not going into the remote past I think our political struggle of twenty one years so far is concerned is of concerned is of much historical important. Before I support these recommendations I would like to divert the attention of the Hon'ble members through you to certain important facts. When the freedom movement was started in 1931 it was natural that it could not develop unless the majority inhabiting this State co-operated. It has to be understood that was the character of this movement of ours. Some hint was given to in this behalf previously when we adopted a State Flag. But the most secret and authoritative fact in this connection could be aims and objects of a party and its presidential addresses. I would like to draw the attention of the Hon'ble Members to the Presidential address of the Quaid-I-Azam, Sheikh Mohammed Abdullah which he delivered as President of the Muslim Conference in the first session of the Muslim Conference in 1933 in which he has stated:

“My struggle is essentially a fight for the betterment of the lot of the down-trodden all over the State. My appeal to the minorities is to join hands with us in this righteous cause, they should not entertain doubts and I assure them that if they will go by my advice, no power on earth can jeopardize their legitimate rights”.

But the communal papers of India at that time published fictitious tables with respect to the movement. It was stated that Sheikh Mohammad Abdullah wanted to establish Muslim Raj in the State. Many such other misrepresentations were made to instigate the people in the name of the religion. As is usual with autocracy certain special interests identified themselves with Ruling class. So far as the clergy and theologians were concerned Maulvi Yusuf Shah was the first victim who was purchased for paltry sum in the time of Hari Krishan Koul. This was the period of the Muslim Conference and the Maulvi always opposed it. Whenever an opportunity presented itself during the course of the struggle of the 21 years the Quaid-I-Azam proclaimed by the beat of drum in big historical gatherings. “we want neither Muslim, Hindu nor any other Raj. But we want such

a Government in this State as would afford equal opportunities for progress in every walk of life to every individual inhabiting the State irrespective of his religious and community whether he be a Rajput, Dogra, Saiyed or untouchable and put no sort of impediments in the path of any person to progress as much as he can on the score of his merit.”

Sir, during the course of the 21 years struggle we have shed our blood and have scarified the saplings like Shawl, the valiant crusaders like Sora and Sherwani, the revered elders like Hamdani, Master Abdul Aziz and Maulana Hamal and the industrious crusaders like Hamila and similar other sons of the soil in their steps hundreds in order to water the plant of freedom, in view of this the steps which we are talking at the present time are in no respect extraordinary. It is said that liberty is not won without paying price. But we have not only paid the price but compound interest as well. We have not secured freedom by the backdoor like Pakistan. We have shed blood and tears in winning it. We have not restored to an armed rebellion like Dido but we have offered sacrifice while following the principle of Satyagraha and non-violence the technique of which Mahatma Gandhi has taught the world for securing political objectives in the twentieth century. It is, sir, also necessary to make a reference to the practical support which our movement received from outside the State. When the painful tale of the State oppression and tyranny spread to every nook and corner of India in 1932 the organization of the Abrars came forward. This was a nationalist and had always been working shoulder to shoulder with the Indian National Congress. While in support of this movement they sacrificed the sons of the soil in dozens in Sateari Chaniot and Saulakot and other parts of India. They sent more than thirty people to court imprisonment in the dark dungeons of the Jail. Not this much alone, while pointing to the Presidential address of Pandit Jawahar Lal Nehru delivered at the State peoples Conference at Ludhiana the Leader of the House has explained his view point on the freedom of the States. I would state when the time for action came he was not found wanting and he did not hesitate to offer sacrifice which is now historical. You may please imagine that when the greatest politician and statement of the

present age visits the State to review the working of the State and says only this much. "Sir, your treatment to the public is not sound", the State army attacked him with bayonets in the same manner as they would have treated an ordinary citizen. But the heroism and bravery displayed by Pandit Ji in fighting them will be recorded forever in letters of gold in the history. This, however, was the same period when our movement took its final shape in the Quit Kashmir Movement. Simultaneously all the progressive parties in India co-operated with us and the greatest man of Asia Mahatma Gandhi even came here. I remember quite well when we went to meet him. There were Hindus as well as Muslims. When we were introduced, he observed "how beautiful is this Country". It is difficult to distinguish a Hindu from a Muslim in it". Not so much alone, when once Gandhi Ji wanted to hold his papers in the open he was not allowed to do so. He enquired "whose order is this". He was told "the Maharaja has ordered like this". He thereupon reported "I do not know the Maharaja. The people of this place are my Maharaja, when I have their permission nobody can check me."

Sir, if I am permitted I shall state without any fear of contradiction that the relentlessness with which Gandhi Ji was martyred in his old age after rendering service to the Indians continuously for 73 years was the consequence to his propagating the Hindu-Muslim brotherhood the best ray of which he had seen in this beautiful country and he repeated and praised it throughout India. This was not liked by the communalists there and he was martyred. Sir, during the course of our twenty years struggle, an inhuman event was marked by flogging of the people of this place under 19-L. I challenge that during the course of 100 years of the Indian struggle such inhuman laws were not enforced in India where the British imperialism had secured a firm foot-hold with the might of its army. We were neither demanding jagirs nor we wanted to deprive any one of his throne. Never has the idea depriving any one of the throne entered my brain. I remember sir, when in 1934 we started a movement here under the auspices of the Muslim Youngmen's Associations and demanded the establishment of responsible Government an inhuman order was issued for administering 18 cane strokes on my naked body. On my protestations that I was physically

incapable to bear the 81 strokes I was told that I had myself said in my speech that all the cases in the possession of the Government might be tried on me and I was made to bleed by the strokes which were got administered to my body the bad characters No 10. Our fight was peaceful and was being fought on peaceful lines. In this manner we offered many sacrifices in our fight for freedom and this very movement assumed the character of Quit Kashmir Movement.

Sir, I would state that when in 1942 Gandhi Ji raised the slogan of Quit India against the British, I remember a historical meeting was held here in Hazuri Bagh in its support when the leader of the revolution Sheikh Mohammad Abdullah in supporting it raised the slogan of freedom or death. It was essential to supporting it as it was quit compatible with our own struggle. Our State too did not remain unaffected by it and the slogan of Quit Kashmir was raised. Without taking much time of the House in explaining, I would at this stage draw the attention to the historical statements made by the Sher-I-Kashmir and his prisoner comrades in the court which are also of historical in which the Quid-I-Azam has stated. "So far as our fight for freedom is concerned, it is not directed against any person. We are only against the system of Government and want to introduce that system of Government in which the supreme power would remain in the hands of the people". This was explained everywhere in the towns, villages and lanes. Sir, I may be permitted to reply briefly the criticisms that were leveled in this connection since the days of the Quit Kashmir Movement by certain selfish privileged people who were the defenders of autocracy and despotism and cognizant of the fact that if autocracy were maintained and preserved their own interests would remain safe forever. In order to poison the public mind the object of the movement was given out as the annihilation of the entire Dogra Community here. It was stated that the movement that had been launched was meant to wipe out the Rajputs and was against them. By employing all these methods autocracy has always remained in the saddle. The National Conference does not want to create such water tight compartments and this movement as was started then was not directed against any community or caste but was against the autocratic rule. The New Kashmir does not

discriminate the Hindu, the Sikh, the Harijan and the Muslim. Such division and destruction will be great crime in the New Kashmir regime. The second criticism which we used to here was this. "After all Maharajas Hari Singh is not a foreigner. He too is a man inhabiting this country. " May I ask what German or Englishman was Chiangkaishak in China. Although he was not mere a emperor yet crores of Chinese adored him as a sacred personage. But when he failed to validly serve the people of that place and fulfill their ambitions and objects he was driven out of his country and it is not know whether these days he is having hot or cold climate in Formosa. In this manner selfish people were busy everywhere in the lanes and streets doing propaganda against the National Conference and the New Kashmir I should state of one, shall be not be even a Rajput, would feel It his religious duty to prevent the tyrant from perpetrating tyranny and support the oppressed, there is a place for that Rajput in the foremost rank in the New Kashmir.

Sir, another important matter which has not been touched in this House so far relates to the raid of Pakistan on this country in 1947. There is no denying the fact that the people of Pakistan are our co-religionists and there is a big majority of Muslims in our country also. Both follow one religion, one Kalma, one Kaba and one God and one Prophet. After all what considerations led the people here to give them a fight. We got our dear comrades and friends martyred at their hands and the young men of this place became targets of their bullets and got martyrdom. We resolved that we should not allow these Pakistanis to get a foothold here. We entertained no personal hatred which we regard as a great sin. After all why did we not extend a welcome to them. The only reason was that the Government of Pakistan was feudal and autocracy of the Nawabs and the Jagirdars was an article of faith with them and they had believed in them. For this reason we opposed them and despite the fact that they were our co-religionists we fought them, because we believed that our fight was not religious or communal but economic. Our fight was against Jagirdari and capitalism and there was no place for us in Pakistan. We on our side are fighting Chakdari and Jagirdari and terminating them while new Jagirdars are being established in

Pakistan. Religion could not consequently make us their dupes as they had put it to wrong use.

Sir, while the three pillars of imperialism have collapsed in India how can this one insignificant remnant of bureaucracy subsist. In agreement with Hon'ble Mr. Mir Qasim I would like to say that as the backward people of the world have awakened and are progressing the time demands that no room be left for feudalism or autocracy. As during the present times even an ordinary insignificant being has awakened and began to understand what are civil liberties and civil rights and what constitutes freedom. When in big Assemblies important charters of human rights are drawn up, autocracy and similar other institutions have become out of date. Such kinks of institutions are mere anachronisms. "with your permission sir, I may say that within the present structure of the progressive world there is no place for Rajas and Nawabs. Be he Mr. A or Mr. B. be he the Nizam or Maharaja of Kashmir, there is no scope for such people now. They should vacate and quit this place for better and more democratic order. There is an upsurge from the under-dog and such institutions are but anachronistic."

I would like to make it clear that so far as the Basic principles Committee has reviewed the position the democracy which we have recommended is neither after the pattern of the Nazi Germany nor of the British type the law of Promeginature is prevailing and the son after his father and the eldest member of the family, be he male or female, ascends the throne. Such kind of democracy is not what we think of. We want a democracy of the type where the will of the people will be supreme. We stick to the view that if the person elected can serve the nation and the public are satisfied and their demands validly fulfilled he can become the supreme head. "He who serves best must be given cannot serve the public. He cannot become a trustee. Since each of us represents thirty or forty thousand people. A huge responsibility devolves upon the Hon'ble Members of this House at this crucial stage, that with this consciousness they should develop further this sentiment. We entertain no hatred against any person and bear no personal enmity towards any family but we are only opposed to the imperialist

order of which we have had bitter experiences. My honest opinion is that no righter course can be indicated or more useful counsel given to the remaining Raja and Maharajas than the one suggested by our Basic Principles Committee in their recommendations. With these words I further support the Committee's recommendations.

Mr. Krishan Dev Sethi:- Hon'ble President, when we survey the surrounding environment we find that all the institutions of the same type as the one for the termination of which we are at present deliberating have been terminated since long. In this connection I recollect a verse of Dr. Iqbal which perhaps he had then addressed us. "Rise". The attitude of the Assembly of the world is something different. Your regime is beginning in the east and the west."

Sir, the whole purport of the discussion being held since yesterday is that there is going on a struggle between the oppressed and the oppressor the usurper and the victim and the exploiter and the labourer since the world began and also when the period of exploitation began. An Hon'ble Member stated yesterday that it was only two hundred years back from today when the struggle started against the view now prevalent which is being debated. But this is in fact not correct. From the movement the exploiting element came to existence, the exploiters formed the State to safeguard their sectional interests. Today the period of exploitation is ending and when exploitation totally end in the world the State will also cease to exist.

The administrative machinery and the political structure of a country reveal its political and economic objections and its relation with the products of different sections. In our country the ruler is the protector of the institutions of Jagirdar and Zamindar classes. Today when we are terminating the old relations with them it is essential that this institution which is the protector of this looting organization should also be terminated. Established by Hitler is also called democracies. The capitalistic democracies in America and Britain are also called democracies. But we believe in the social democracy and hold that no true democracy can be maintained merely by granting the right of voting to the public. The object is not only this that the people can effect basic changes in their

representatives and the economic order. But we want that plunder and exploitation may be finished for ever. To give effect to this order we have effected the land reforms and are proceeding to complete it. It therefore becomes imperative that the axis around which the exploiting elements revolve should be destroyed. If the axis is not done away with, there is the apprehension that anti-revolutionary forces might again ascendancy. For instance we know what happened in the French Revolution. Through the monarchy had been terminated there yet there was recrudescence of factional fighting. The sections who were thriving round a particular capitalist axis had not been liquidated. The result is obvious that the personal rule of Napoleon was again established. Today when autocracy and Jagirdari are being terminated it becomes necessary that all the departments of exploitation are abolished in the country otherwise it is feared that anti revolutionary element might again raise their head somewhere. The next thing which I would state is this. Where was the necessity of creating the State of Jammu and Kashmir and establishing it under the control of any other man exactly at the time when in the time of Lords Wellesley and Dalhousie the British had wanted to take India under their direct control.

In this connection we shall have to study the history. Sir, we know how the Ruling Dynasty of this State which was created by the British imperialists for the accomplishment of their imperialist designs has from time to time played into the hands of the British imperialism. A historian named P.L. Jadgar has written in his book entitled the "Indian Princes under British Protection" that this State was in reality created by the British imperialism. Similarly another historian K.M. Pankikar has written in his book entitled "Gulab Singh" that the Sikh Kingdom stood in the path of the British Rulers to annihilate the Afghan Kingdom which they had dreaded. When the war broken out between the English and the Sikhs Gulab Singh was present on the spot. Notwithstanding his being a confident of the Sikhs he co-operated with the British. Similarly in the battle with the Afghan at Jalalabad Gulab Singh rendered services to the English at the nick of the time. Subsequently, Sir, the period began when capitalism changed in to imperialism and all had begun to running about to again experience. While on the one side

there were Britishers there were on the other Dutch, the French and the Portuguese who were striving to spread. While on the one side there were Britishers there was the Czar of Russia on the other busy in extending his Kingdom. The British were seeing their live interests in Persia. At that time also the British fully understood that our State held a strategic position and therefore installed the faithful dynasty as its Ruler so that in times of need in the future they could use Kashmir for the purpose of extending their Kingdom and stem the expansionist activities of the others. On studying their history further you will find that when after the second world war the capitalists of the world receiving a set back and a revolution swept over Russia the British realizing the strategic position of the State and in consideration of the danger that the borders of Gilgit met those of Russia stationed an army of six thousand in Gilgit to hold the State under their own control. Subsequently in 1953 they took Gilgit under their direct control to ensure and to defend the Ruler of this State in the event of any disturbance occurring in the State and prevent any revolutionary germs from crossing into it. It was the constant endeavour of British imperialism to ensure that no public movement took its birth here and repression was restored to on the one hand to disturb it, and on the other efforts were made to disintegrate it. The public therefore presented their demands in 1864. At that time Diwan Kripa Ram was the Minister here and with his help the movement was broken off. The repression that was applied at the Bridge of Haji Rather is not concealed from anyone. Similarly a movement was started in 1931 against the autocratic rule. There was commotion in India also then. The public leaders raised the slogan that it was the right of the people to govern and not of any family. This was public movement but the British Imperialist excited disturbances, in the country, and in order to relegate the real issue to back ground the country's atmosphere was given a communal color and subsequently on every occasion also the British strove against any genuine public movement to take birth here. In 1946 when the English began to leave India they transferred all authority to the Rajas instead of to the public of the States. We started the "Quit Kashmir" movement at that time to get recognition to our right of self determination but the English tried to

suppress the movement with their own power aided by their agents.....the Rajas, the Maharajas and Nawabs and the Nizams. During the time a revolutionary movement was launched in India chiefly by labourers and peasants which forced the English to leave India. But even in such conditions the Rajas and the Nawabs who had acted as their agents were given the right of deciding the future of their State for the purpose of sustaining them. It was their exclusive right to decide that if they did not like to accede to either India or Pakistan they could remain independent. The motive behind this was that this would enable the imperialists to get their intrigues introduced in India and for this purpose Kashmir was specially selected in view of its geographical position. At their suggestion the Maharaja of Kashmir personally decided to remain independent. When the public movement gathered momentum and the British realized that the public had well understood their intrigues and the Ruling Dynasty alone could not be instrumental in the accomplishment of their plans and the public movement could not be fought direct intervention they got our country attacked by their imperialist stooge Pakistan to break of the public movement that had been continuing in the country. The attack which was apparently launched by Pakistan was in reality from the imperialist powers. But the India military arrived to check it and the movement here also gave it a fight with the result that the intrigues of the imperialist powers were not completely successful. This was not an attack by Pakistan on Kashmir but an attack by the imperialist powers on democratic movement to ensure that not democratic movement took root in this important place. But in this too the imperialist powers failed. Despite these failures, we are noting how on one pretext or the other the imperialist powers are striving to gain their ends in the J&K State through the U.N.O. whether it be the Graham Report or the Dickson formula their effort in this connection is directed to convert Kashmir into a military base. The fact that India had made it clear in unmistakable terms that they would not permit the stationing of the United Nations troops in the J&K State is not concealed from any body. Dr. Graham had thereupon said "if you do not permit the stationing of the troops in your territory permission may be given for stationing them on the 1st border line of the State

and Pakistan so that any attack from Pakistan could be checked in the absence of Indian military". From this it become perfectly clear as to what are the plans of the imperialist. The imperialist want a partition the State to destroy our affinity, station there own troops here establishing a trusteeship and convert it into an arena of the third World War. I, therefore , submit that this institution which has so far been instrumental in accomplishing the imperialist plans should be eliminated altogether in order to put a brake on the imperialist plans should be crminated altogether in order to put a brake on the imperialist designs and keep the public movement alive. Patriotism demands that first of all the institution of this foreign agent should be abolished with one stoke of the pen (Cheers). Bedside the public here demand that the sum of six lakh rupees which is being paid annually to this institution from the treasury of this country and the balance amount by the Indian Government to make up the amount of twenty lakh rupees should be stopped and this amount utilized on increasing the pays of the low paid employees, providing water in the Kandi tracks, extending educational facilities, and making adequate arrangements for medical treatment and appropriating if for such other projects of public utility. No amount should be paid from the State treasury for the enjoyments of this institution which can be rendered possible only by abolishing this institution. You will notice that these days due to the existence of this institution a misunderstanding is arising about our aims and objects not only in India but through out the world with the result, that Pakistan where the regime of Nawabs and Jagirdars still obtain and where the State's people are passing a life worse than that of the animals, where the so called leaders of the Muslim Conference of this place, we have all along been playing the role of traitors in this movement, and at the time when we had been fighting against this institution declared this Ruler as the authority and in a State of forgetfulness and helplessness raised the slogan of obey God, obey the prophet and obey those who are in authority among you are dubbing us as agents of this institution due to its existence here. With a view to remove this misunderstanding and meet this charge it is essential to liquidate this institution. We have acceded to India and no power on the earth can break this connection.

But we have acceded not only to any personality or the Government of India but the people of India workers and peasants. From our accession to India it does not follow that the Ruling Dynasty should be maintained here or that the land Reforms should not be enforced. I believe the people there would also lend their support not this decision of ours. The peasants of Pepsu and Patiala and the public of Hyderabad and other States will support us. All honest, progressive and democratic people every where inside and outside the Parliament are supporting us. It is being said in the India Parliament these days which Nizam of Hyderabad is not being eliminated, the Maharaja Kashmir is being liquidated. I should say that this institution should have been abolished four years back. The people of Jammu are as much oppressed as those of Kashmir and none wants that the exploiting elements should be maintained. I feel that the unity among them and not because of any absolute institution. Therefore if we are anxious that antirevolutionary forces should not succeed, the public should be prosperous and there should be no imperialistic intervention. The secret of the people here lies in abolishing the institution. Simultaneously with the elimination of this hereditary ruling dynasty it becomes imperative that we should be on our guard against such families also as have so far been the cause of inviting aggressors from outside. Should we fail to remain cautious at this delicate stage, it is apprehended that they may at the nick of time stab the movement in the back. I, however, support with these verses of the poet Iqbal ; "The attitudes of the age have changed. The song is new but the instruments have changed. The old politics has fallen and is abandoned. The earth is displeased with the Mir and the Sultan. The capitalistic regime has ended. The juggler has gone after giving an entertainment. The China in heavy sleep have recovered. The spring of the Himalayas have begun to boil. 'O' Sadiya ! lift the curtain from this secrecy, make mamola fight a hawk". Along with this.

"The age of sovereign democracy is coming. Wipe out the old order wherever you find it".

Kotwal Chuni Lal:- Sir, I think that the matter which has been brought up for consideration before this House through the report under discussion is of great

importance. The Hon'ble Leader of the House has presented it to this House with great ability and in a masterly manner. For me at least it would tantamount to pre-judging their effect if repeat his observations. All the Members are fully aware of the fact that from the movement the awakened labourer and peasant of the world became conscious of his rights he began to fight for them. During the course of this fight he has had to suffer defeat physical violences several times but he was not disheartened and continued his fight. He was victorious in several fights and is still winning. It is not hidden from any one that the walls of the imperialistic and capitalistic order have become hollow and the victorious labourer and peasant is conceiving different plans for this prosperity and is living a happy life in the world. This effected India as well and the effect was manifest in this neglected corner of India. A brave man born in Kashmir who had full knowledge of the tyrannies and oppression perpetrated on the public, fought the feudal order and not only the backward people of Kashmir but the people of Jammu also specially those oppressed people of Kashmir but the people of Chennai who had been subjected to extreme afflictions participated in this. Victory crowned the people in their struggle which was started here. Let that the matter relating to the hereditary rulership has so far been hanging fire. The Government of this place is being carried on democratic principles since sufficiency long time. The literate attach little importance to the problem of hereditary rulership but the reactionaries take undue advantage of it and raise hopes among the simple folk of the restoration of autocracy under the impulse of sentiment want to oppose but I believe that they will fail. I believe these people who are the friends of autocracy fully understand the popular Government and the power of the public and today they are also constrained to raise the slogan of people Government and approach the public only with this slogan and no other. I wish only to say that this history is full of tragic and sorrowful tales of these hereditary dynasties who have spread since several centuries not only here but throughout the world, but also some people are still being mislead by reference to the divine right. The fight which we have started has already been waged by the people of the world against such autocracy and plunder. We have been

fighting against autocracy and this outdated order. No question of personalities involved in it. We hate the system not any person. Personal attacks breed bitterness and when bitterness is produced the real matter gets obscured for the time being. We should fully understand this because the cunning people create misunderstandings among the people. This should not happen now Sir, as was stated yesterday by Mir Qasim and by Sethi Sahib today autocracy is a fiction and the age of bureaucracy and autocracy or personal rules had ended. Its days have since passed. But this matter came up here only for the purpose of debate there can be no two opinions about it that autocracy has no place in the process of democratization. If there is any thing wanted in our democracy it is only this that the Head of our State should be elected and not holds his office on the Principle of hereditary succession. He should be elected by the public. It is an admitted fact that democracy is fully accomplished only when the Head of the State is elected by the public and this office does not go on hereditary basis, There is no place now on the earth for the principle of hereditary system. That person who wants to succeed and hereditary basis also feels in his heart that this claim is hollow and lacks strength. He wants to enlist, the aid of other people for maintaining his possession. He has normal conviction that his claim has no justification and commands no respect. Any respect could be possible only by carving a niche in the hearts of the people. When we enforced the revolutionary measures and liquidated the big chain of the Jagirdars who as a class were enjoying the fruit of the labour of the public to which they had no right nobody could even raise his little finger against them. They also say that those who deserved got it. This is exactly the case with the hereditary rulership also. It is heartfelt longing of every person that he may live with self respect as self respect is a great thing in the world. I think they would maintain their own respect by translating into reality their spirit of self respect and would not put any obstacles in the path of oppression. The mighty powers could not sustain themselves when the poor peasant mustering courage raised his voice against the oppression. The capitalists even now appeal in the name of humanity and we are also raising the slogan of humanity. I, therefore, believe that the outlook of

the plunderers which they have placed before the world is a temporary phase and will die out. In order to bring democracy to complete it is essential that we should end this hereditary institution. I would state that it is not the people of Kashmir alone who want to abolish this hereditary institution but the public of Jammu as well if a correct approach is made to them. Lakhs of people have practically reaped benefits and whatever small hitches there are or had been in the form of autocracy should be removed so that complete democracy is established. In this way the man who may be a representative of the public should be elected for the office so that all the people inhabiting the State whoever may be and to whatever community they may belong whether Hindus, Muslims, Sikhs or Harijans could claim to become the highest officer of the State on the strength of his abilities and on the basis of the services that he may have rendered to the public. With these ideas I support the recommendations of the report.

Note:- Mr. Assadullah Mir rose amidst Cheers.

Mr. Assadullah Mir:- Hon'ble President, the Qaid-i-Azam has presented his view point fully yesterday as to whether the future government of our State should completely be based on democratic principles or take the form of constitutional monarchy as at the present time. This institution has acquired this technique. Hon'ble President the future plans can never be divorced from the dim events of the past. If we therefore once again think over it and review as to why man as a social animal had founded this institution and what was its objects, it will be revealed by turning the leaves of history and from the ideas of the thinkers that when the man established these institutions it was only the preservation of those rights which nature had granted him from his very birth. What are those rights? A thinker has repeated them in these words.

“Men are born and always continue free and equal in respect of rights. The end of all political associations is the preservation of natural and imperceptible rights of men and those rights are liberty, property and security and resistance to oppression.”

If the basic principle underlying these institutions was to maintain the freedom of man, if the argument was to maintain our property rights and if the objects to be achieved by it was our security and protection of the man from tyranny we would examine whether this institution has justified itself in our country and could not safeguard our basic principles so far. I would only rest contented with the speech of the Qaid-I-Azam which he delivered in this House yesterday and in which he has given facts about such institutions of the whole world. If I confine my speech only to the history of Kashmir we shall find that the government of Kashmir was under subjugation of the foreign rules for centuries. The Mughals, the Pathans, the Sikhs and the existing dynasty came here and ruled the people of this country. But did they discharge that obligation for which naturally they had been chartered on social contracts basis. After the establishment of the institutions they became fundamentally opposed to the aspirations at the public of this country. If they are to be understood in detail how painful would be oppressions be found (which our history else corroborates) which the occupants of this institution have perpetrated on the forty lakh people. It will be found by turning the pages of the history that in 1774 during the Afghan regime with Abdullah Khan Pathan as its head the historian has recorded the details of the plunder and tyranny perpetrated by him on the forty lakh people of this place in these words:

“He exacted heavy fines and indemnities from big merchants and respectable gentry of the country. Once some of his menials branded a leading person of the country with the red-hot irons.

Unable to bear the torture this man succumbed to his injuries.”

Subsequently also under the Afghan rule Abdullah Khan used to meet exemplary punishments those who raised slogans against the foreign rule with a view to liberate Kashmir by pinning them and leaving them hung tied behind the Habbakadal and Zainakadal. History bears this out that during the Sikh regime also such oppression were perpetrated and when the oppression reached its climax and Kashmir was after all going to be freed from a tyrant another tyrant in the form of the Ruler came here by virtue of the sale and deed of Amritsar. All

sorts of tyrannies which he perpetrated on the inhabitants of the place continue in themselves along story. When in 1936 the slogan of rights was raised here which developed under the leadership of the Qaid-i-Azam to terminate the foreign rule in this country the tyrannies that were perpetrated by the Government of the day are not concealed from the public of this place. But the climax of these oppressions was reached in 1946 when the Qaid-i-Azam as a true spokesman of the forty lakh people raised the slogan that no Ruler had any authority to govern this country which belonged to the people and the sovereignty was the right of the people. These words found their echo in every hook and corner of the Jammu and Kashmir State and they are as under:

“I hold that the fundamental right of all men and women to live and act as free human beings, make laws and fashion their political, social and economic fabric, so that they may advance the cause of human freedom and progress, are inherent and cannot be denied though they may be suppressed for a while. I hold that sovereignty resides in the people, and all relationships political, social and economic derive authority from the collective will of the people.”

We have therefore assembled in this House today to translate into reality that slogan. The Basic Principles Committee ask for direction from us. We may as the spokes-man of forty lakh people issue the directions which would tell the world that we are taking steps to abolish this institution. If we do no effect this change posterity would dub us as traitors. The report of the Basic Principles Committee has, therefore, been submitted you have to decide whether this institution be terminated or maintained. You might have not forgotten the events of 1947 when it could not protect the lives of forty lakhs people and unable to endure the mild shock of the enemy's attack the structure collapsed, the hollowness of the structure was revealed. I fail to understand on the basis of what rights and aims he claims to maintain this institution for governing the forty lakh people of this place.

In this connection Karil Marx has written that this is not the age to maintain such institution. Tat person alone can govern the people who has the

supreme will of the people on his side and who has been invested with authority by the public. He alone can frame the Constitution for the people:

“The supreme being for man himself. Consequently all relation of condition in which man is humanitarian enslaves, despite creator must be destroyed.”

On the basis of this principle it was therefore, necessary that this hereditary institution should have brought about revolutions not only in Kashmir but the world. Several occurred e.g. land revolutions, scientific revolutions and industrial revolutions and these were due to the voice having been raised against autocracy, because these institutions never allowed an opportunity to the labourer to satisfy his wants with his earnings but on the contrary used to build up its position by the money earned by him through hard toil. But the revolution changed the constitution of the world. The very institution for the maintenance of which man was fighting turned into his enemy. The time has therefore come that this institution be changed and the necessity is being felt that it should derive authority from the public. Any institution which may be established during the present time should be directly bound up with the longings, desires and ambitions of the public and can be established by the local people themselves. The Report of the Basic Principles Committee is therefore based on democratic principles. Whoever may be the Head of the State, he should be elected. On these principles, I therefore, strongly support the motion.

Mahasha Nahar Singh: Hon'ble President, I would like to say a few words in support of the report of Basic Principles Committee which has been submitted to this House. Although it is being discussed yet it contains a proposal in which no room is left for any discussion. Besides, the Hon'ble Leader of the House in his speech pointed out all the demerits of this Ruling Dynasty since it was founded in the State. Nothing was left wanting in that speech. This Ruling Dynasty hesitated to give practical shape to the measures which were calculated to benefit the public. In support of the motion we have to say that the world order is changing today and to examine whether or not any Ruling Dynasty was liquidated previously also. We have simultaneously to consider whether or not

the aspirations with which the peasant and the labourer have advanced are to be fulfilled. In consideration of this I should with confidence state that the Ruling Dynasty should be eliminated to fulfill the leanings of the labourer. With its existence calamities have descended upon the poor who would be involved in them in future as well. The world cannot tolerate it during the present age. Previously the Lambardars and the Zamindars were appointed because of hereditary right. It is the people of those villages alone which remained under their way who knew what troubles they were subject to. But from the institutions of the Lambardars and the Zaildars ceased to be hereditary, the Lambardars and the Zaildars are carefully selected. In olden days besides the ruling dynasty other people surrounding it united in oppressing the subjects. When anyone among them had to travel from Jammu to Srinagar the Beqar was needed and even when only four persons were available they were requisitioned and had to work as the Begaris. They were neither paid in cash nor given bread. Besides they had to go on foot up to Srinagar. On return the poor fellows had to wander from one village to another. Those who were connected with the Ruling Dynasty used to engage the villagers on their land and also wrongfully take possessions of the milk of the cows and buffaloes, belonging to them. If anybody murmured he was sent to prison. Therefore the Ruling Dynasty should not continue. Today when I was coming from bazaar a friend of mine told me that I was going to liquidate the Ruling Dynasty and put me these questions. When Maharaja Hari Singh had gone to London in connection with the Round Table Conference the question was raised then whether the Congress should be granted freedom or not. Maharaja Hari Singh replied that freedom should be granted and therefore he was Congress mined man. The second point which he stated was that when the "New Kashmir" was published the Jagirdars and the capitalists raised hue and cry against it but when a copy of it was presented to the Maharaja he approved it. After this he raised the question that the favours shown by him to the Hariajns could not be forgotten because the Maharaja first of all permitted them to draw water from the wells, enacted a law permitting them to enter the temples, entered them as agriculturists and issued an order in 1941 for the

recruitment of the Harijans in the Government services. After hearing all this I said whatever the Maharaja did was right. When Gandhi Ji had come to Srinagar and counseled him, why did not he unlike a Congressite. Secondly when he approved the "New Kashmir" why did he imprison the National Conference people. Lastly if he showed favours to the Harijans there was nothing extraordinary about it. Had the Harijans come from a foreign country. Was it not the duty of the Maharaja to remove the causes of oppression to which they were subjected. Had we come from Pakistan or London? What was achieved by his having declared us as agriculturist? Had the owners of the land ever been ploughing it. I drafted a petition in 1981 Svt containing eleven points that the people were not allowing us to draw water from the wells or to go near the ovens for getting the bread and were throwing the breads from a distance. Why were we not being given service. Had we not taken part in conquering Gilgit. Had the Harijans not co-operated with you then. The pattas are with us even today. Those Jamadars and Havalgars are still alive who went there and conquered. The few families of the capitalists and the Jagirdars argued that if a Harijan was appointed as military officer or a Lieutenant "we shall have to salute him" and for this reason they were oppose it. Influenced by the view the (Safar Maina) suppers and Miners etc. in the military were disbanded to avoid saluting the Harijans as it was said. Was this is not an injustice? The time is passing and changing. It is not our idea that the Maharaja or the Yuvraj may not come here. But this what we think that what crime are we committing if we too are saying that the Head of the State should be elected when in a big country like India in inhabited by 35 crores of people the President is elected. He may indeed come here but in what capacity. He may tour the country and guide the people. It is also our duty that we may respect him as a citizen. But we do not approve of it that he himself should remain in Bombay and six lakhs of rupees may remitted to him from here as it will be better that the six lakhs are spent to improve the lot of the public. If he has carried on this century old order and if it is changing today this should not generate in him any feeling of regret. Our State which was hitherto behind the times is now progressing forward. It is recorded in the

Mahabharata that Raja Dushyanta once went out for hunting. In the forest he saw the hut of the sage Kanu. He saw a girl there who was picking flowers. He asked "where is your father". The girl replied "my father's name is Kanu Rishi. He has gone outside on pilgrimage." The Raja observed "Kanu Rishi is a Brahmachari from his boyhood. You cannot be his daughter." The girl thereupon said "I do not know whose daughter I am, I have, however, been brought up by Kanu Rishi." The Raja said it appears that you are a Rajput girl and I think I should marry you. The girl replied "I cannot marry so long as Rishi ji does not return. On this Raja said " according to our Shastras it is the right of the boy and the girl to decide about their marriage. No right has been conferred on the father in this behalf. The girl thereupon said, before the marriage I would like to make you promise one thing and that is this that the son born of me should succeed you as Raja." The Raja agreed to this and then the marriage was celebrated. The Raja stayed there for many days and left. Afterwards when Kanu Rishi returned he came to know of the marriage. He remarked that the marriage should not have been celebrated in this manner. However, what has been done is alright. The son was born after sometime. The boy was very brave and only at the age of five or six he was capturing the lions and the elephants. He was named Bharat. After some time the Rishi thought that the time had come when the girl Shakuntala should be sent to her home. He accordingly sent her to the Raja. The Raja then observed, "On reaching the Raja's Durbar, Shakuntala said" " this is your son. Please take charge of him, also please order me what kind of service I would perform for you." On this the Raja said, " I don't remember anything. I have neither married you nor he is my son," The girl replied "twelve years have passed when you married me." The Raja then observed, "the boy does not appear to be of 12 years age. He appears older and therefore I am not prepared to accept what you say. The Durbaries thereupon said "perhaps you do not remember. You must have married and made a promise. The Raja then admitted, this had happened but I had made this promise in a personal capacity that I would appoint your son as Raja. I do not know now whether or not the public would like to appoint him Raja after me. I had therefore evaded by saying

that I did not remember because he could be appointed as Raja only with the approval of the public and not at my bidding. It was due to this only that I had denied. When the public afterwards said that they would appoint him as Raja he was appointed as such. What I mean to say is this that a king is selected only with the consent of the public. The hereditary monarchy which came to hold the field in the intervening period was the product of the British. Previous to that a Raja was elected by votes. If he was not elected by votes you know what was happening. In our illaqa there was Akhnoori Raj and I am relating an old instance. A peasant went to sell twelve Pumpkins (Pethas). When he reached the city of Akhnoor, the officers of the Raja demanded thirteen Pethas as bribe. The cultivator said, "I have only twelve". They retorted "we are thirteen shareholders and whatever will be left after giving them can be your share. This was the Akhnoori Raj. It was the custom there to hold that the washer man steals things, the barber collects bread if anything was lost it was the duty of the goldsmith to search for it. The reason given was thus. Since the washerman washes the clothes he will therefore steal the things. Since the barber knows all people he will collect the bread. Since the eyesight of the goldsmith is sharp he should therefore conduct search for the things lost. This was the condition under the autocratic rule. The translation of the sale of Kashmir in lieu of 75 lakhs of rupees was very invalid, and incorrect an instance which indicates that this sale was tantamount to selling an entire public. If things would have taken place as approved by autocracy a man like Hitler could never have come forward. Since this system was not obtaining there. Hitler got the opportunity of becoming the President of Germany. What was he? He was a carpenter but the people elected him on account of his ability. When the people want that their country should progress votes alone should be deciding factor. We do not say we entertain any ill-will against the Maharaja or are against his person. But we say that since the world has changed also he should change. With these words I support this proposal.

Mr. Bharat Ram Sharma:- Hon'ble President. After the establishment of the Constituent Assembly a committee was constituted in its very first session which

was charged with the duty of determining the basic principles on which the constitution of the country was to be framed. I was also a member of this committee. The committee considered different aspects of the situation concerning this State. Many meetings were held and all facts were taken into consideration fully. It became obvious that the same constitutional set as was framed for the State when it was in its infancy is still in force even to the present day when the State has developed. The most important part of the constitution which revealed itself was the one connected with the system of hereditary right of the Rulers. We examined it and found that this part in the constitution besides being old and absolute was extremely narrow. We imagined that if this very system continued it would after cracking either collapse itself or the State or the society (which was given constitution this would tear it away and cast it off). The committee, has therefore submitted an interim report in this behalf for consideration of the House and recommended that the system of hereditary rulership which obtains here should at once be changed, and instead the public given the right to appoint the Head of the State according to their choice for a specific period to do away with any question of hereditary system. When we decided this question, the ideas that came to our head in determining the same have been stated in detail in this House by Qaid-i-Azam. So far as I have personally understood this problem it is like this. The man who for the 1st time occupied a piece of land and said "this is mine" proved the foremost enemy of the world. Since then as the time advanced the power of the private property institutions went on increasing and at last it attained the status that certain oppressors became Rajas, Maharajas, Nawabs, Nizams and Kings. Their supporters came into existence simultaneously and this element was given preference over everybody. With this strength those Rajas stabilized their own position. They even began to declare themselves as the agent of God and connected their origin with the sun and the moon and invoked the support of religion. The intrigued with the Pandits and usurped the right of the people and said " all the enjoyments of the world are meant for us, and if you would serve us you will also enjoy in your next birth." But the times changed gradually and the

people were several times defeated and they were several times successful. The struggle therefore continued. Then came a time when the position of the British imperialism began to spread in the body politic of India. Under the influence of this position these Rajas, Maharajas, Nawabs, and Nizams got another lease of life in India. It was the effect of this position that the Rajas, Maharajas and the Nawabs, assumed the character of social cancers in which their sphere of action spread contagion in different parts of India in the form of Chakdars, Jagirdars and Capitalists as we call the. The public of India raised their voice against this element and also this poison of the British imperialism and had to make countless scarifies in this connection. But at last the time came when unable to endure the weapon of non-violence of Mahatma Gandhi the British had to quit India and with it the poison that had corroded the body politic of India also finished and the public became sovereign. The question has arisen whether or not the people grant another lease of life to these parasites that have taken root in the body politic of India. If such a lease is granted it would amount to deceiving not only the public but the Rajas and the Nawabs as well because our environment and the values of the times have undergone so much change, produced such effects and given rise to such view points as demand that these old and absolute blood sucking institutions should be abolished. The conditions are manifest that if these institutions are abolished in constitutional way, and good; otherwise the public feeling distressed will be constrained to take the law into their own hands and use violence to abolish these institutions. If as was the case with Kashmir a slogan for the termination of the authority of the Nizam and his replacement by a President elected for a specific period has not been raised these days in Hyderabad does it go in his favour. I should say it is not at all in his favour.

Hon'ble President (Hon'ble G.M. Sadiq B.A. LL.B): it is now half past four and many Hon'ble members have yet to speak on this motion. I, therefore, consider it proper that the business of this House should be adjourned till 10 A.M. tomorrow so that this business alongwith tomorrow's business be finished in due time. I think that no Hon'ble member would have any objection to this.

Note:- *All agreed to it.*

Mr. President (Hon'ble G.M. Sadiq B.A., LL.B):- Today's sitting is therefore, adjourned and we shall meet again tomorrow at 10 A.M.

Note:- The House then adjourned till tomorrow the 12th June, 1952

SRINAGAR SESSION

1952/2009

Wednesday, 12 June, 1952.(30 Jeth,2009)

The Constituent Assembly met in the Assembly Chamber Rajgarh Palaces, Srinagar at Eleven of the clock.

Hon'ble President: (Mr. G.M. Sadiq B.A. LL.B) in the Chair.

Hon'ble G.M. Sadiq (President): Mr. Bhagat Ram Sharma.

Mr. Bhagat Ram Sharma:- Sir, I was explaining yesterday that the retention of Institutions like Rajas, Nizams and Nawabs is more harmful than conducive to the interests of those persons who are connected with these. In this connection I may submit that when the slogan of "Quit Kashmir" was raised the reason as to why a similar "Quit Hyderabad" slogan was not raised, is apparent. The events which took place in Hyderabad should serve as an eye opener to us and if suitable steps are not taken with due regard to the situation prevailing at present, there is very likelihood that Kashmir may present another Tilangana. If the pledges given to the people are not redeemed constitutionally and peacefully, they will be constrained to cure this malady like the physician whose treatment annihilated not only the ailment but the patient as well. Even if one may have to sympathy with all such institutions, the only way to express this sympathy is to remove their exponents and induce them to eat the bread produced by the sweat of their brow. If we do not take such steps dire consequences will ensure. In

deciding such matters one must not discard making distinctions on the basis of communalism nor should one pay any heed to discrepancies, if any. We are doing away with Monarchy and the question of Hindu, Muslim as such sounds out of tune here. The question could have cropped up if we were going to replace one Monarchy by another, or if we would substitute a Muslim for a Hindu or reject a Muslim from Hyderabad and place a Hindu there instead. But we are wiping out this institution altogether; nor do we want to continue or change it. The natural and logical consequences of this are that the persons connected with these institutions are deprived of a life of ease and leisure not for any personal grouse. None of the members of this House thinks as such. So far as these institutions are concerned they did not of course make any discrimination between Hindus and Muslims, when their interests were involved. Just as the people of working class have a kind of brotherhood likewise there is brotherhood of reactionary elements, not only in the State but throughout world irrespective of caste, creed or nationality. I recollect an event of the old Assembly. The Jagirdars of both the sects one Hindu and one Muslim, were entitled to elect a member. Now the question cropped up of Jagirdars professing different faith at that time the communal feelings were greatly agitated and naturally the Jagirdars of that faith who preponderated succeeded as members. Unfortunately, a member with unbiased religious feelings stood from amongst the Jagirdars who preponderated. But the other class of Jagirdars jointly helped another member of their own faith. An way I mean to say that a brotherhood of reactionary elements exists. Where there good is involved they unscrupulously take it to the forefront relegating the question of Hindus or Muslims to the background. In order to achieve their ends they instigate the simple folk, under the pretext of religion; but as a matter of fact, they have absolutely no concern with religion. The second thing which I may submit is that the institutions which we are abolishing are connected with a Dogra Dynasty. A few days back, some visitors had come here who while conversing with me asked from me names of Cabinet Ministers. While numerating the names, I came to the name of Hon'ble G.L. Dogra; they asked me if he was from the Royal family. When I asked them 'how' they told me that

there were Dogra Princes here and there relatives too, and naturally he (Hon'ble) G.L. Dogra too might be a prince. I was surprised at this strange misunderstanding. I told them that their conception of Dogra's was erroneous and that there was a world of difference. A Harijan of Dogra illaqa I pointed out to them was also called a Dogra. I related to them the atrocities inflicted by the Dogra Rulers over their Dogra subjects. I hope none of the members of this House has any such misconception but as it is the misconception exists outside. In India of which we are a part these misunderstandings are there. I placed before them some events. I will presently put before the house atrocities committed by them to establish the solidarity of their State and to enforce their rule over the people were inhuman and inconceivable. Some of the old men of their time remember well how a person who raised a cry against their repressing rule was crushed ruthlessly least earring whether he was a Rajput a Dogra or any other persons. Instances are there of punishment like stripping of skins of wide awoken persons in the Jammu province. Besides, persons, who could not pay.....Land Revenues or other taxes were loaded with pebbles and a pot of water over their heads and were not set free until the taxes extorted from them. This was Dogra Rule and the afflicted person was also a Dogra. Besides, I may give yet another instance of other punishments inflicted by Dogra Rulers namely that the leg of the accused was thrust in a hole bored in big log of wood; this log he remained fastened. This was an ordinary punishment.

It is said that the Ruling Dynasty was Rajputs; but then the Rajputs ought to have been in power. Instead of the Ruler treated them as traitors. They were never given beyond a post of peon which enabled them only to eke out their living, nor a Rajput ever became a Minister, let alone a Prime Minister. It was always an outsider, whom Rajputs served. As it was, the Royal Family did not tolerate to elate them but looked down upon them as brave but ignorant people hence befitting as soldiers. This was more for their own safeguard: presumably to save their skin and their Rule from annihilation at their hands, had they been propped up to positions of power. As regards the activities of the Royal Family I would like to say that, during my childhood whenever Durbar of Maharaja used

to move from Jammu to Srinagar, a great pandemonium was caused in our village in as much as the attendants and the Retinues of the Maharaja had to be carried in palanquins; and arrangements had to be made to procure Butter, curd, milk, fuel and other sundries for their sojourn at Tikri, situated at a distance of 20 miles from our village; and the Lambardars and Zaildars extorted money and conscribed villagers for labour.

Mr.Moti Ram Baigra: But you were also a Lambardars.

Mr. Bhagat Ram Sharma: That is why I know all these things, these are not mere hearsay events but the voice hither to Dorman, which now emanates from the core of my heart. At the next harvesting season when the Durbar moved to Jammu the people likewise were forced to supply provisions for these Rulers. Often the villagers had to face the wrath of the Zaildar, if curd or milk were not approved by Royal Butlers and they were flogged. Leaving aside Butlers the Rajputs had even to suffer the humiliation of making obeisance's to their ordinary servants as well. This was the fate of Dogra people and this was the Dogra Government, which is being made about end of misconceptions.

Besides this, I would like to throw light upon another matter. If an outsider a Raja Sahib for instance came into the State he used to get lands as Jagirs by ingratiating himself to the Royal family and beginning sympathies with them and thus the indigenous toiling villagers were bereft of their lands.

There are some maniacs who allege that the present Government is of Kashmiris. But I must impress it upon you that today the Dogra Kisan has, through the efforts of Qaid-I-Azam been liberated from the shackles of Dogra bondage after centuries of servitude (Cheers). The people whose interests were involved with the Dogra Dynasty were either Britisher's the men from Punjab. The Royal Family never cared about filial afflation and example whereof, I will presently relate. If you go to village Reasi you will come across a family of Dugals whose lineage is traced to Maharaja Gulab Singh. Their plight owes its genesis to a cry of protest raised by them against this autocratic Rule in consequence whereof they were interned in the village with the result the family is leading a Milkman's life eking out their living by rearing cattle. Similarly you will

find blood relations of the Royal family in Akhnoor Kanachak, who have suffered at their hands. The greatest good as if it were done to the Dogra subjects by the Royal family is that in villages the people and the relations of Royal family are constrained to take the water which even rich men's dogs refuse to touch. Now through the efforts of their leaders the people have been afforded a chance to give vent to their put up demands after centuries of repression. When the Budget session commence from every nook and corner of the House voices were heard as to why in such and such illaqas arrangements for drinking water were not made when it had to be procured from a distance of six miles. If it were a ogra Regime why arrangements for drinking water and supply of electricity in the illaqas of Kandi were not made.

Why people died untimely deaths, why people were obliged to take the drinking water which germinated boils on joints and germs of considerable length, the plight which the unfortunate victims of this disease had to face can well be imagined. Contrary to this visitors from India and other countries flock here and see that a net work of roads have been laid out. But the autocratic Government did nothing for the masses, had they their good and well at heart, then four years before there would never have been the only transportable Jammu and Kashmir road. Whereas you will find a net work of roads being constructed throughout all Tehsil Head Quarters you see roads in Reasi, Ramnagar, Tehsil Head Quarters did not exist nor there were bridges. But recently roads have been constructed and rivers bridged at the cost of laces of rupees, Rajouri and Poonch had their own Government why did they lack these things. Now the people's Government has come to power after one and half century and the people have put forth their long over due demands and in consonance with the wishes of the people, the Government have laid down a net work of roads and bridges within a shortest time. If conditions favour, the demands of the people, all and each will be fulfilled. I had at the very outset submitted that due to reactionary elements the British Imperialists had occupied the fair country of India; and at the crest of them there was a mushroom growth of Maharajas, and other reactionary elements like obnoxious boils. Now that the

Britisher's have been ejected from India, the continuance of Maharaja appears anarchistic .Nowadays it is said as to why the question of accession of the State is not decided; I would submit that the misapprehensions created in the minds of the people in India and Pakistan, have thwarted its execution. A true accession is not executed on a mere scrap of paper but a genuine and permanent accession will be completed only when the barriers in its way are removed, which is but essential. Since now this communal frenzy has been banished from the soil of India its remnants in the State should be wiped out as well.

This only the malevolent impression of communal bias imprinted by the orgy in which people were immersed a few years back, will be weaned from their minds and they will once again be brought under the bond under which they were tied together in good old days, and that accession will be permanent and everlasting. One may write on paper or not, a permanent accession will be complete only when the affinities which exist between the people of India and Pakistan entrenched at present behind the bulwark of communal hatred endangered by misapprehension are rekindled and resuscitated and this accession will be unbreakable however try one may to break it.

What give rise to this issue ? the Quit India and Quit Kashmir slogan raised by Gandhi ji in India and Sher-I-Kashmir in Kashmir if raised in other State would have never, I have firm conviction given rise to the question of accession, what were the reasons, need not to be dilated upon; you may go to Security Council of the U.N.O, or any other agency, the question will remain as insoluble as ever. The question of our accession has been hanging fire in the Security Council for a number of years; sometime Graham and sometimes Dixon Mission come and go and submit one report or the other. So long as the venomous imperialists are there they will thwart any amicable settlement of the matter. They are rather looking forward for an opportunity to re-occupy India. No power on earth can solve the question of our accession except the people of our land and the step we are taking today augurs well for us in that behalf (Cheers) and then will establish ties of friendship not only with India but with world.

***Mr. Ghulam Rasool Rinzoo:** Mr. President, the report of the Basic principles Committee presented by the Leader of the House, occupied an important place not only in the annals of Kashmir but the whole of India. It transpires that for the first time of all the States of India, the people of our State which is situated at the foot of Himalayan ranges have decided to abolish that order which based modus operandi on compulsion violence and barbarism which in other words means despotism. Another recommendation contained in the report aims at establishment of such an order, chosen on the principle of adult suffrage, which will represent the masses; an organization in which every man will have right to progress and assert his capability. The report presented by the Hon'ble Leader of the House envisages on the one hand abolition of old order and on the other hand beginning of a new one, which will be peoples Organization and hence peoples Government in the real sense of the term. Sir, when we will consider the merits and demerits of both of these organizations we will find the autocratic one abounding in evils and contrary to this, the order that we aim at will be a genuine peoples Government. A survey of the autocratic rule will show that it was nothing but a premeditated organization to crush people's political, cultural, and economic liberties. The followers of autocratic rule defend it under the pretext that the king or Raja is the image of God and advocate divine Rights of Kings; the people according to them are precluded from interfering with his administration nor they have any authority to offer their opinions simply because the Kings rule is divine and as such the people must obey the commands which the king may issue from time to time. An inevitable result of this rule has been perpetration of penury, poverty and starvation of the people. So far as historical evolution or this rule is concerned, the Hon'ble Leader of the House has explained before the House in extension, where upon the learned members have amply thrown light in their speeches. I do not want to say anything more on the subject, but I would like to point out certain facts with a view to impress upon the House the organized way in which peoples liberties were usurped under the autocratic rule. The economic organization was based in such a way as gave little or no peace and tranquility to the people. In our State for instances, soon

after Maharaja Gulab Singh got rulership of Jammu by carrying favour in Sikh Darbar, he began exterminate the Rajas of Rajouri, Kishtwar, Udhampur and similarly he subjugated the Valley of Kashmir. Thus blood of thousands of men willingly or unwillingly, was spilled. The wish of a Raja tantamount to a command; and the command issued by the Government had to be carried out. Thus all these things were responsible for the destruction of the people who could not question these, left alone recalibrate. By skipping over the pages of the History of Kashmir, you will learn how people were subjected to innumerable difficulties. A few centuries back, to quote an instance, there was a Mehar Gul by name. The history of these times is full of cruelty, barbarism and repressions. He issued orders under which lacs of people were beheaded. While on his way to Pampore, the Raja came across a canal in which huge rock had fallen. After the sayings prevalent at that time, that if a virgina placed her hand on it the rock will begin to move automatically he issued an order summoning all women of the country to place their hands on the rock so that the rock may out. It is surprising, indeed, how a huge rock could be removed by frail women. History reveals that when women placed her hand on the rock and it did not move, the unfortunate women was suspected of unchastely and beheaded at once. Thus the cruel man slaughtered 3 lac of women. Not only men but even the animals were sick of his cruelty. One day while going to Kashmir his elephant sprained its food and due to acute pain began to trumpet when nearing death, the groan that escaped the mouth of the affected elephant commended itself to the ears of the Raja who found some sort of musical notes in it. Accordingly he issued an order for pushing a number of 100 elephants down a hill so as to produce the same sort of music for him. Similarly during the Mughal period, as a perusal of Tuzki-I-Babari or Tuzki-I-jahangiri will show, if the King issue an order to behead a certain person, the head of the doomed person was smitten at once although the justice of Jahangir is renewed. As regards liberties of individual, the learned member of the house have explained, in the course of their speeches how the people of this country had to serve as of beasts of burden when the Raja had to move from one place to another. They no voice against such orders and were denied the right to

refuse these even though circumstances., domestic or otherwise constrained them to do so. The order of Raja had to be carried out forthwith. Take the example of Maharaja Hari Singh, at the time of the tribal invasion he slunk away bag and baggage with the result that millions of women were turned widows who are still wandering with no hearth and home to live in Jammu and other illaqaas. Sir, so far as economic order of the autocratic rule is concerned., accessibility of each and every facility for the royal Family was basic wishes and to procure millions of rupees for their luxuries quite oblivious of the pangs of hunger privations and innumerable difficulties sustained by the people. When Louis XVI was reigning. France overtaken by famine; and when the famine stricken people began to clamor for food, the French Queen, with all the hauteur, asked a servant as to what was wrong with the people that they were crying for hoarse. The servant's replies that the people were crying for food. The Queen's retort "why don't they take cake and pastry". This is an historical fact. The history is full of instances how the Rajas and the Maharajas disregarded sufferings of the people during famines.

Besides this, Sir, we are trying to bring under plough every inch of land so as to increase the production of food, fulfilling thereby, the demand of the people, contrarily contraing, during the autocratic Government thousands of acres of land were reserved for Rakhs , were pigs for Royal Family were tended. these pigs brought havoc to the crops of the people and the people had no power to raise a finger to drive them out let alone using a stick. What were the causes responsible for uprising in the (Alwar,) State in 1933 ? the basic cause was that dears of the Royal family had destroyed the crops of the people and they had asked for permission to drive them out. But the despotic Government superseded their movement, and the popular demand of the people was besmeared with blood.

The catastrophe, which befell refugees, recently is worth mentioning. The reguges, ground under grievous privations with no home and hearth to lay their heads in ; were exposed to appalling misery; and even those who lived in a ampus had to face the torrents of rain which permitted to the innermost recesses of their makeshift tents. But the Rajas and Maharajas did not pay the least

attention not to speak of accommodating them in their spacious palaces. These Rajas even shun religious liberties to say little of individual or Nations religious liberty. Whether a Hindu or a Muslim, a Raja cares least for others. Sultan Sikandar was known as idol breaker; why? Simply because the people did not see eye to eye with his religion, with the result that thousands of idols were broken. A study of history will reveal that during Sikh rule many atrocities were inflicted upon Muslims so much so that they were even denied entrance to Mosques. It was due to these reasons, which prompted our first struggle. During the autocratic rule not a single road was constructed whereas the people's Government have in a short time of four years, laid out a net work of roads through-out the State if one goes to Ladakh one will find metal led roads there. As regards education, I would like to relate a personal experience. Once when I was a small boy, a letter from a relative of ours was received in our home; I found every one perturbed, I asked my Grandfather as to what was the matter. The reply was "A letter has been received, now who will read it". I remember well that my Grand-father took me to Secretariat via Zaina-Kadal, to Habba-Kadal so as to get the letter read by some clerk there. This was the condition of education during the autocratic rule, and such was the condition of things. In face of such oppression and atrocities, it behoves the people to stand on their own legs and raise a cry against this order; so the Leader of the House has hinted to view order of things in report presented before the House, in which there will be a Government of the people by the people and for the people; and to run this Government, there will be chosen representatives of the people who will assembled in a House, will direct the administration according to the will of the people. Previously one man's verdict was tantamount to God's decree, but now all people will have right to advance the cause of this country. Reviewing the achievements of the last four years, it has become crystal clear that there are only two classed... one, which is oppressed, and whose interests are trampled under foot and the other one are those of the exploiters, who sap the blood of the working classes. The basic principle of our movement is to establish a democratic Government on the lines of other democratic countries of the world

and to abolish old and absolute autocratic rule. Our State is in a unique position. There is Russia with the people's Government established by the annihilation of Czarist regime in the one side and on the other there is China bordering Ladakh, where the people have proved to the hilt the effectiveness of feeling and emotions that pulsate, in the mankind by abolishing capitalism there. About the report presented by the Hon'ble Leader of the House yesterday. I would like to say only this much that this is a challenge and in that we are redeeming pledges made by the Sher-I-Kashmir to the people. I remember, in the fusillade opened on the people near jail in 1931 in suppression of freedom movement, scores of people were wounded and scores died. A martyr was taken to Jama Masjid, where he exhorted Sher-I-Kashmir thus; "Sheikh Sahib I have done my duty, now it is your duty to protect your Nation." I think presentation of this report in a important step towards the fulfillment of those promises (Cheers). The soul of all these martyrs will be dancing in ecstasy to see that BLOOD shed by them has come to a successful fruition. With these words I strongly support and hope that House will adopt it unanimously so that the freedom may dawn upon us.

*Mr. Abdul Khaliq Butt: Mr. President while seconding the report of the Basic Principles Committee I would like to submit a few words. The Leader of the House and other learned members have delivered their speeches on the subject in detail. I have no fresh arguments to further explain the issue, nevertheless, I would express my views on the same briefly. It is indeed a day of pleasure that we are deciding an issue which has direct bearing on millions of people. It seems, therefore, essential to me to raise my tragic voice so loud that it reaches souls of those martyrs who sacrificed their lives in the struggle for freedom. It is because of them that we are here to mould our destiny. First of all, I congratulate Qaid-I-Azam and the workers of the J&K National Conference whose leadership has enabled us to forge our future I will be failing in duty if I do not congratulate the Hon'ble President whose sacrifices won him the confidence of this House and the exalted position he holds. The world bears witness to the tribulations that the people of Kashmir underwent for many centuries together. Kashmir, the

earthly Paradise, has always fallen a prey to constant plunder and marauding. In fact, what conceivable suffering is there, which did not befall on the people of Kashmir. The sufferings sustained by the people that I speak of were perpetrated by the autocratic Rulers. These (affected) people belonged to different classes including Mughal, Sikhs and Dogras. These rulers subject all the inhabitants of the country to cruelties. Amongst Muslims, Pathanas were the most cruel of all. The family of Bir Dhar, to quote an instance, suffered destruction at the hands of pathan even Abdul Qadys Gojwari could not escape torture simply because he gave refuge to the family of Shree Bir Dhar and that was his fault. The close of 18th Century and beginning of 19th Century was the most odious of all time in as much as the Britisher's by that time had destroyed liberties of the people of the world at the point of sword and had sold...Kashmir to Maharaja Gulab Singh; not only the soil, and the people were sold, but also the snow-clad mountains, fields yielding bumper harvest and verdure and even the flying birds were sold for a trash, while seconding the report Pt. G.L.Dogra had pointed out the other day that the question was not so important as it was made to appear. To me the question is very important in so far as we are not only bent upon...extricating ourselves from the shackles of autocratic order but also to disencumber ourselves from that servitude in lieu where of my ancestors as well as those Pt. G.L.Dogra were sold out to Maharaja Gulab Singh. Today we are endeavoring to liberate ourselves from that sale deed. Hence the important of the question. this is not a question of any particular sector of creed nor is our movement based upon communalism, a solid proof whereof is the fact that when satellites of imperialism-Pakistan invaded our country in the name of Islam, notwithstanding their knowledge of preponderance of Muslim in Kashmir, the Muslims while fighting succumbed to death at their hands. So I may submit our goal is not directed towards personal ends; and to that end Master Abdul Aziz, Sheerwani, Brig, Rajindra Singh ji and thousands of Muslims, Sikhs, and Hindus fell martyrs in defending their country. This, as such is neither a religious question nor an individualistic matter. Our achievements might be the cynosure of all those martyrs who sacrificed their lives for sake of their country, Gandhi Ji whose

principles have manifested themselves in the principles of co-operation, will be judging our achievements as well. Besides this martyrs of National Conference the souls of those martyrs of India like Brig. Usman and many more Sikhs will be happy today at our freedom. Even if Zain-ul-Abidin who's equate and magnanimity not towards Muslims only but towards his subjects at large is renewed, had been an autocrat Ruler, he would definitely have met the same fate at our hands.

It will take a long time to recount the atrocities committed by the present Ruling dynasty, and therefore. I will mention one of them namely Begar or forced labour. I have a personal experience of my childhood in this behalf. When the Zaildar of my village wanted to conscribe villagers to serve as beasts of burden to Naib Tehsildar who had been transferred to Gilgit, the thirty men selected for the purpose wept so bitterly as if some relative of theirs had died. I remember well, the inhabitants then collected money and handed to the Zaildar and thus saved the poor villagers from forced labour. Conscriptio9n by ordinary officers like Tehsildars or Naib Tehsildars does not matter much, but conscription by a personality like Maharaja Pratap Singh is indeed ignominious. The inhabitants Sanniwara, in view of their adeptness in rowing were conscribed when Maharaja Paratap Singh had to go a boating. Some old men in my village relate stories of conscription and how the sickened persons used to slink away during night.

One of my learned friends while dilating upon the question of education, alluded to a thing or two. I have had such an experience. While reading in sixth class, the Jagirdars forbade me to read English on the pretext that I would turn an apostate and lose my faith. But, as a matter of fact he did not like to see others educated in his own interests. The entire responsibility for this rests with the present autocratic Government. Kashmir has been the target of innumerable miseries so much so that the she has become used to these now. A Mirza Galib says:

Man once won't to miseries, tends to be heedless to these; and the sorrow ceases to be a sorrow. The miseries, which befell me, were so numerous that they ceased to affect me.

Kashmir has become the very embodiment of sorrows and miseries and as such we need not complain now. Whatever we find best we shall do. I feel the whole world will rejoice at our achievement; Maharaja Hari Singh, therefore should also be happy because his brethren Dogras and other people have been liberated after 106 years of rule by their ancestors while Maharaja Hari Singh foreshock his subjects in the hour of danger. Millions of people were killed in the communal orgy and did not care least. Anyhow, he ought to be happy that the country is now well on its way to progress. There is now no room for autocratic rule. If, however, some capable person emerges from amongst his family, he will be the Constitutional Head.

With a view to preserving the freedom won by Sher-I-Kashmir and his colleagues after undergoing innumerable travails and tribulations, we will continue struggle for freedom with the same vigor and enthusiasm as we have been doing heretofore. Even if all the powers of the world conspire to thwart the people of Kashmir, we will render their mechanizations futile. With these words I support the report put before the House.

Bhagat Chajju Ram: Mr. President, the report of Basic Principles Committee presented by the Leader of the House has been discussed at length by the Hon'ble Mover, and by other friends. I would however like to submit that the principle of vesting the authority of deciding the fate of the people in one man is not correct as he cannot deal justice to each and every individual in a proper manner. This principle has commended itself not only to us but every philanthropist of the world, we have witnessed the depredation wrought in India in general and the States in particular .the tradition of succession has been imbued in every individual; a son of a Lamberdar is always confident of becoming a Lumerdar whether or not he serves someone. Similar notions are ingrained in a son of Zaildar with the result that the chances of progress in the world have been barred out rightly, India, some time back was regarded as a leading Nation in the world and later she was dubbed as a backward country simply because of chances of progress were barred. Well- considered speeches have been delivered before me and passages from the speeches of the Indian Leaders have been read out. I would only like to submit the views of some of European Philosophers in regard to the form of Government they wanted and the nation cherished by them centuries before. A great philosopher has summed up his opinion in one line:- "The will of the people is the fountain-head of all law and

constitution". Mr. Thomas Harris writes "Just as two independent individuals enter upon an agreement out of their own will, and one of them the other his representative, similarly source of power of the administrators is the people." "Further M. John Ruth writes" Just as two persons can cancel an agreement entered upon by them due to non-fulfillment of a certain condition, in the same manner if the executive authorities begin to abuse the power vested in them by the people, the people have right to snatch it away from them." These were, I may submit, the views of foreigners. Now I would like to narrate a few passages from the Veka.

Note: the Hon'ble Member quoted a passage from Veka whereby he proved that the Sovereignty vests in the people.

Would like to say something about Manu Maharaja, when the people apprehended some disturbance, they approached Brahmaji who told them that it was upto them to cure the malady and advised them to choose their head themselves and they chose Manu ji as their Head. As regards the question of inherence, Manu ji advised thus:-

If a Raja is being elected it is essential to see that the Raja is a servant of the people, loves his subjects, shuns all wordy desires and always thinks for the welfare of his subjects and tries to alleviate their miseries and sorrows." Under these circumstances we are not attacking any individual, but this is a matter of principle and we have to take into account both the Rule and the ruled. It is indeed surprising that large sums are sent out to the Maharaja while his subjects go without food and clothing. A question had been asked in the 'Daly Milap' as to how much amount the Maharaja got from the State and in reply it was stated that his civil list was fixed at 1 ½ million rupees. It was calculated at about rupees four and half thousand per day. I ruminated over the plight of six thousand inhabitants of my native place and the constituency wherefrom I have been returned I-e Ranbir Singh Pura where the people were starving. Is there any rhyme or reason that Rs. 4 ½ thousand per day should be paid to the Maharaja while the people are dying of hunger and starvation. I would submit that if we have to progress we must stick to our principle. The principles are before us, the principles for which

the Qaid-I-Azam passed a good part of his youth in prisons, and the workers of the National Conference suffered innumerable difficulties. I think it is the day on which our sacrifices will bear fruits. Now we have to decide about our future programme. A few years back the right of ownership was peculiar as well as torturous. The tillers used to work on the lands of their landlord who reserved portion of land for them to live in. in exchange of this land the tillers had to work in their fields and live a life of serfs. He (tiller had no choice to work against the wishes of his employer and if he did try, he was ejected forth-with. Our crying need of the day was a tract of land to live in and

Some die for prestige and splendor too,
Others desire pleasure and Luxuries,
But we pine for a piece of land, to
Live in and cremate our dead.

Our demand was transfer to rights of ownership of land to us but they would never accede to our demand. While tendering evidence before the Commission I, as already pointed out by me, had emphasized that the authorities would never agree to the rights of ownership of land to tillers.

When once we have tried a thing to our dismay, it is a sheer folly to repeat the experiment. It tantamount to tasting of sugar again and again notwithstanding its sweetness. The pitiable plight of the inhabitants of my constituency has given birth to an implacable hatred in their hearts against the autocratic regime so much so that its very mention causes a great consternation in them. Is it possible, therefore, to enslave a person again when once he has been set free; just fixing up of an old log in a well embellished house mars its beauty. It will be a great injustice to the people whose interests I am representing here if I do not give expression to their feelings. The ways of forced labour were such in which not two or ten but thousands of men were conscribed. On a day of hunting, for instance, the conscribed men had to drive the "Shikar" out of their abodes before the hunters. Sometimes it so happened that the bullet aimed for game missed its mark and hit the poor labours. I remember well the condition prevailing some 20 or 25 years back when the bell for Beggar was tolled there was no escape from

it. It will take a great time to recount this long tale. I feel that this House will after due consideration of all aspect give its verdict so as to avoid resurgence of the system for ending which we have undergone so many trials and sacrifices. With these words, I support the report.

Hon'ble President: Mr. D.P.Dhar,

Mr. D.P.Dhar: If the Hon'ble President permits, I would deliver my speech in English.

Hon'ble President: Permission is granted provided the House has no objection.

Note:- The House agreed.

Now the question arises why did we accede to while Hon'ble D.P. Dhar : - Sir, in the last two days we have heard the discussion on the report and recommendations of Basic principles Committee. We had the privilege of listening to the very lucid and comprehensive speech from the Leader of this House. We have also had the privilege of hearing the views supplemented by his Dy and by my Hon'ble friend Mir Qasim and other Hon'ble members of the House. I do not propose therefore to wear you by going over the ground, which has already been covered. But I feel that here we have two or three aspects which deserve more consideration than they received so far. A good deal has been said about Feudalism, its origin and its capacity, but it is to be realized. Sir, that feudalism is I alliance with Imperialism in the world. We have to see that wherever monarchy has existed in those parts of the world they have been the playground of Imperialism, exploitation and internal misrule. In our own country, Sir we must to forget the hereditary ruler ship of the Princes and the part played by the Indian Chamber of princes as an instrument of the British Imperialism in crushing down the freedom struggle of our people. We have to remember the role played by the Prime Minister of India in backing us at the time of trouble during the Quit Kashmir Movement that was to lead to the concision immediately before August 15, 1947. At the time of the partition of India it was the aim of the British Imperialist to retain in India as many feudal Puppets as possible and it was in pursuance of this policy that two of the staunch feudalists were sought to be preserved one in South and the other in North. What has been described as

fan tastier of these two princes was not merely to their individual activities but they were the tune of some body else? They were under the discretion of British Imperialists trying to throw out the aspiration of their own people. By this system of alliance between Imperialism and Feudalist Lords which we saw in our own country and the amount of suffering which we had undergo is better known to the world. In view of the Imperialistic designs of the princes f India in general and the two princes in particular, how is it possible for us to keep any association with the feudal associates of foreign Rulers. There is another aspect of the question to which, with your permission. I would like to draw the attention of this house. It has been said in some quarters that this particular institution in our country symbolizes the unity of the various sections of the various people of this country. It is true that this system has functioned as a cohesive instrument but that this coercion was a direct result of the enmity, which is inherent in the system. What appears to the ordinary eyes unity on the surface is in actual practice only the unity of the exploiting classes. In our country, we should remember the role that the Jagirdars and Zamindars associations played throughout our freedom struggle. Those gentlemen who ordinary were trying to sow the seeds of disunity among the people in the name of religious of Hinduism and Islam combined on these platforms but were threatened by the same source namely the source of the people. What the Leader of the House the other day referred to as a combination of the monarchy and priesthood was demonstrated in our own country and is clearly known by the fact that the high priest of the Muslims in Kashmir, who incidentally happens today to be the supreme Head of the so called Azad Kashmir Government has described the Hindu ruler as the image of God. We must not forget the unity (if at all you can call it unity) which is found not among the people but among the exploiters of the people. On the contrary has, I must believe that this system responsible for creating discord and disunity among the broad masses of people. And it is my belief that if this symbol of unity disappears, conditions will be created for the genuine unity of the people (Cheers).....a unity which will be based on the common terms of our

common problems, a unity in which all the sections of the community in the country will move together for the reconstruction of their mother-land.

And then again we must not forget the dangers we face and even our country for we are is still a controversy in the international eyes. We must remember hat it has always been the symbol of imperialism to disrupt a people's movement in ordered to destroy their country. India was partitioned. Palestine was divided, Burma was separated; and look at Korea, Indo-China, Malaya; and look at your own country, which has been divided by imaginary lines. We must be prepared to face the imperialist's designs to divide our country into parts and pieces. I was very happy when my Hon'ble friend, Mr. Saraf put a question to the Leader of the House about the solidarity of the people. I don't know what his answer will be the only answer that appears to me will be in our unity. Let us rise then unite ourselves from all parts of the country. Let us rise then unite ourselves from all parts of the country. Let us all initiate some of our leader in the decision of our country; and let us all unite to expose all these quarters, all these persons who foster in our country as the aegis of rules.

Regarding this aspect, I will draw your attention to the fact that on the many occasions doubts & suspicious are raised with regard to the progressive policy which I am sure, has led to great political, economical and social transition in the country and this has received full support of the people and the majority in India. I am equally sure that whatever we may have done so far and whatever we propose to do will equally receive the support of the masses. Indeed, this is based on progressive lines and we are free to do it. It is the joint effort of the people of India and the people of Kashmir which should ensure the relationship of association between the people of India and the people of Kashmir to grow more strong and we hope that they will constantly lend us their support in fighting against the conservative elements within the country and abroad.

Now, Sir, I will come to another point. It is being held in certain quarters that since the power has essentially been transferred into the hands of the representatives of the people the Institution of Monarchy that is only a legal

formality does not call for material discussion. But this argument implies that this institution of that this institution of Monarchy should have the necessary capacity to adopt itself to the changed circumstances. Even if it were so, the argument would not hold any water in as much as it is not the question of the system of the institution and its capacity alone. But also the fact that the power that the people have acquired is the result of their own unceasing struggle and sustain efforts of its determined leadership.

It is obvious that the redundancy of the Institution is such that one cannot look upon it in academic manner in a country where the feudalism has been totally abolished. Under these circumstances, we cannot allow hereditary ruler ship to continue any longer.

We have entered upon the threshold of a new age and the history has given its verdict and we cannot change its validity thanks, Sir.

Hon'ble Mubarik Shah: Sir, after the scholarly way in which Qaid-I-Azam has put the question before the House and the way he has put forth the historical facts on support of the abolition of the institution of hereditary ruler ship. I feel there is hardly any room for me to speak anything more on the subject. Nevertheless I want to draw your attention. Sir to one or two things. After the emergence of two nation theory we were confronted with such situation where. I fear, some of us may judge the question with a communal base. It is therefore, necessary that I should survey briefly the history of the emergence of kings and feudal lords and their institution. The Hon'ble members of the House are well cognizant of the fact that before the revolution of 1918, the East Indian Company came here³ for commercial purpose; and with the passage of time restored to a policy of exterminating these kings and feudal lords so as to establish their own rule over the people. Later on they found that it was impossible to carry on administration like that. In fact it was due to the help of these kings and feudal lords that they were able to save their skin during the revolution of 1857. Thence on wards they followed a new policy and it was to establish their supremacy over one fourth of India through these kings and Feudal lords. The part played by these kings and feudal lords in suppressing the revolution and strengthen the

hands of Britisher's in India is well known. History bears ample witness to the fact that the East India Company suppressed the resolution by their help and thereafter these kings and feudal lords ruled the country; and it was for them that they introduced subsidiary system in India. The year 1935 proved a land mark in the history of India in as much as we witnessed for the first time the division of India in to British India States; and it was to this effect that bill was introduced in the Parliament terminating any direct authority over the State; and now it came to be vested in the Governor General. Another feature of English Imperialism in India was that the country was divided into three parts i.e. Federal. Provincial and Native States. The game was to enforce the provincial part first of all with a view to creating a sense of provincialism hereby creating hurdles in the way of enforcing the Federal Part. As by impoverishing different provinces the consolidation of the provinces would not be possible.

Sher-I-Kashmir saw through this imperialistic game and thus the second phase of our struggle passed. The delegation that came to India did not touch the issue of Indian States at all and on the contrary created anomalous position for ten crores of people. The world at this juncture was engulfed in a disastrous war and India stood divided into a number of fractions. It was not a question of freedom of India as the Indian National Congress. The forerunners of all the parties, was confronted with the question of maintaining the unity of India as well. The Indian Leaders did not have so much time as to take up the question of the State but even then Pandit jee supported the States people notwithstanding his inability to render any active help. On the contrary what did Muslim League do? Mr. Jinnah showed complete disconcert with the States. ; This meant that the Indian States should remain as they were retaining the influence of British Imperialism and putting an end to the unity of India. I would like to remind you here that it was at that time that Sher-I- Kashmir raised his voice and unjust way of dealing with the State. He reminded them that it was not possible to withhold the freedom of the State at the time when they were conferring the same on Indian provinces. He told them that when they were conceding sovereignty to India a natural consequence following there from would be that the States will

have a right decide their future. The Muslim League not only opposed this but also even strengthened the lands of British Imperialists. The people backed the slogan voiced by Sher-I-Kashmir and what followed was that the Maharaja arrested Sher-I-Kashmir to which the Qaid-I-Azam has not referred in detail. I therefore, feel that the decision that we are taking is very important. This decision will be written in golden letters not only in the Indian History but in the world history. After all. What is the constitutional validity of the step that we are taking? The decision that we are taking is that the sovereignty belongs to the people after the elapse of paramountancy. This needed on declaration. Sher-I-Kashmir has repeated this during his trial permit me, Sir, to read extracts from his speech. When India was partitioned and Hindu Muslim riots, broke out, we wondered as to what was happening. This was something contrary to our traditions, history and civilization Sher-I-Kashmir before the partition said:

“I hold that the fundamental rights of all men and women to live and act as free human beings; make laws and fashion their political, social and economic fabric. So that they may advance the cause of human freedom and progress, are inherent and cannot be desired, though they may be suffered for a while. I hold that sovereignty resides in the people and all relationship political and economical derives authority from the collective will of the people”.

This was voiced in 1946 and this is being translated into action to day; and today the people of Jammu, Kashmir and Ladakh are being freed from the autocratic servitude. It is therefore, a historical decision, I would like to apply this principal, to which Sher-I-Kashmir has alluded, to very history of Jammu and Kashmir. The treaty of Amritsar, to which reference has been made by Sher-I-Kashmir, by which in 1846 a public concern sold Kashmir to Maharaja Gulab Singh, was not a legal transaction. However, I submit that not only Kashmir was sold but also even India was sold. With your permission, Sir, I would draw the attention of this House to another fact. Before 1857, the Status of East India Company was merely that of a trading Company, which by its treachery and fraud obtained permission form the Mughal dynasty only for trading only for trading purposes. And as the Mughal Empire was at its decline, this company by

and by managed to acquire supremacy and right to rule. When the revolution came, the people of India could no longer be suppressed. Upto this time the British Government stood aloof but after the revolution the East India Company in lieu of a huge amount sold her Indian acquisitions to the British Government. Hon'ble Members know as to where from the money came. The British Government raised the public debt in India and thus sold India to British Parliament. The people of India raised their voice against this transaction and Gandhi ji led the movement. At this movement it was not only British India that had been sold but also the States. When the movement of Quit India was launched and the British rule with its paramount came to an end, then naturally, logically and constitutionally it follows that the paramount of all feudal lords, Jagirdars and Kings should also terminate.

Before I close my speech. I feel that I should explain some of the points raised in the House. One of the learned Members said that we ought to have decided this thing eight years back, but the leader of the House. Sher-I-Kashmir always wanted to do everything peacefully and it was in keeping with the traditions and dignity of the National Conference that we are taking this important step so peacefully and it was, in keeping with the traditions and dignity of the National Conference that we are taking this important step so peacefully. Maharaja Hari Singh might also be feeling that the retention of Maharaja etc. is not justifiable. However the patience and the tolerance that we have shown in taking this historical decision is unique and dignified. My friends Messrs D.P.Dhar and Mir Qasim both referred to history to show as to how in other countries also this institution has been abolished. Although during the revolution in Russia and France the Members of such institution suffered even physical annihilation, but we have effected the change peacefully. Today we are abolishing this hereditary ruler ship without resorting to violence; and are doing away with it on human principles. I may submit that abolition of this institution is the crying need of the time. As regards our constitution; it is also of prime importance as to how best to fill up this constitutional vacuum. We feel that the head of the State and sovereignty represent a symbol and it is befitting that this

symbol of dignity should be elected by the people. I would like to point out here that there are some imperialistic forces at work to undermine our freedom, but it is a historical necessity that we should not allow them to divide our country. The symbol which represents our unity and good will should be an elected one. With these words. I second the motion.

Hon'ble President: Before the Hon'ble Member who have given their names to speak, I would like to point out for the information of the House that most of the arguments already advanced are off and on repeated in consequence where of most of the time of the House is wasted. As such I would say that the argument once put forth before the House is wasted. As such I would say that the argument once put forth before the House need not be repeated. I would therefore prescribe at the most ten minutes time limit for further speeches.

Maulvi Mohd. Anwar Shah Masoodi: Mr. President, I beg your leave to speak in favour of the recommendations that the Basic principal committee has placed before this House namely: -

- (a) to frame the constitution of the State after the democratic pattern;
- (b) put to as end to the traditions of the hereditary rule; and
- (c) throw the office of the Head of the State open to election.

The recommendations have already been the topic of discussions for full three days in the House by our Qaid-I-Azam and over two dozen Hon'ble Members who have spoken in its support.

In this discourse they have thrown light upon every aspect of the issue. I believe the very many arguments that have been advanced to carry that move through can provide sufficient material for an ardent student of politics.

The problem has been discussed in such a vide detail that nothing more need to be said about it. But still it would not be out of place to mention that outside the House there is a rumor that this question is being brought in before this House on the strength of the majority community, and it is openly said that by taking the decision of eliminating the system of hereditary ruler ship the Muslim majority of the State wishes to end the Hindu Ruling Dynasty.

I am consequently constrained to disclose before this House and the World at large the truth behind such fraudulent activities.

Respected Sir, This accusation of our epoch-making decision could have some justification if the Muslims had been actuated by religious motive to do so, The system of Government suggested by the Islamic code has never commanded the Muslim Community to be impatient with a non Islamic rule. On the other hand, it has liberally approved of the right of Government by any class party or personage which pledges to deal justice and equity. How could we dream them of forcing our rule upon others when Islam pronounced it through the mouth piece of its (Blessed) Prophet. The one whose judgment came to us as final. Just like the commandments of the other prophets to their respective religions. "God beholds no worse a personage then the one bent upon calling himself a king or an emperor. " How can one under these circumstances deem it reasonable to accept the fraudulent accusations of having made the Hindu ruler of the State a target of the communal grudge of the Muslims? To believe like this would mean a sheer injustice to the reason and reality. The epic encounter that took place between God's mighty prophet, Abraham and the reckless Anti-God monarch, Numrod, interestingly be speaks of the same. To His Holy prophet, Abraham God assigned the difficult task of instructing the heedless King Nimrod. "Quit a matter of shame to pronounce themselves as God whereas the real God is there" said Abraham unto Numrod. "what feats can thy God accomplish" asked Numrod, said Abraham "My God brings death unto the livings and gives life to the deceased. "I too share this deed with Thy God, don't I condemn to death one who is innocent and spare the other who deserved death" , replied Numrod Abraham retorted. "not convincing at all. If you ever bid to watch my God, just command the sun to rise in the West rather than in the east". And to this the wily Kink Numrod could find no answer because the situation was quite out of his control. Then Nimrod acted as a rude autocrat should act upon such occasions. He got prepared a pyre of fire and ordered Abraham to be hurled into the flames. In this manner, respected Sir, the world has witnessed the terrible treatment by an unpopular ruler towards his dissenting subjects from the early beginnings of

human creation. Religion has least to do with such issues. The christens of Russia out rooted their Czar inspite of his being a staunch Christen and Mustafa Kamal did the same in homeland Turkey. When we search for the reasons that brought about his triumph we find that religion had nothing to do with it. It is clear thus that religion had least to do with the revolutionary movement of, for instance, Russia. Turkey and Iran. The incompetent, unjust and autocratic monarchs of these States furnished the most effective cause for the elimination of the hereditary rule in these countries. These condemned monarchs always went against the constructive design of their subjects and proved themselves too unfit to be tolerated by their oppressed subject. Let me repeat it that similar miseries were endured by the populace of our Kashmir also at the hands of its autocratic rules whose tyrants held the subjects in bondage for a period of d106 years. let me quote a recent instance to the same effect. When Pakistan invaded our State, and our renowned martyrs, Brig. Rajindra Singh, Master Abdul Aziz etc. faced the raiders with unsurpassed heroism, this age-worn incompetent and condemned dynasty thought it best to run away from the State for asking the people at the mercy of bloody insurgents. These doings and irregularities would not hold water in the changed circumstances of the present days. So I am sure that Hari Singh ji and his colleagues would not fail to appreciate this decision and hail it as the crying need of the hour. With these words I support the decision.

***Mrs. Ishar Devi Maini:-** Mr. President the move has been providing discussions on all sides for two days now. Every one has expressed his views and I am prompted to give my views now. Through ages this land of Kashmir has been celebrated as the choicest place for meditations. In the remote past some people visited this blessed land for meditations and their monuments stand witness to their visit upto this day. These sages and saints succeeded in discovering some truths in this in this land and carried them proudly to the people of Hindustan. A world reputation was earned by many sages and saints who developed their powers in this land and carried them proudly to the people of Hindustan. Many sage and saints who developed their powers in this land earned a world reputation. In the present day too we observe that the fair names of two

renowned songs of our land Pt. Jawahar Lal Nehru Ji, and Sher-I-Kashmir shine like the sun and the moon for their greatness in the word------(cheers)-----

----- Thus I am right in maintaining that this holy land belongs equally to Hindus, Muslims and Sikhs without the least discrimination of any sort. The produce raised by the tillers out of this sacred land feeds every person of the land-imbibing in them the qualities of fortitude, valour and sympathy, On the basis of these clear facts. I have every reason to believe that this land stands acceded to India not from today but for centuries past. This relation has been further strengthened by the unique courage and patience the songs of this land have displayed in resisting the yoke of the tribal insurgence. I was living in Poonch when Pakistan raided this land, inflicting destruction upon life. Property and every thing that came in their way. An influx of 15000 refugees poured in from polyandry and seeing the woeful plight of these wounded persons my husband Vakil Sahib, was shocked. He entreated me to act as a mother to this mutilated flock and see that these were sent to India. Our people defended heroically the city of Poonch against the tribal yoke. At that crucial moment we were badly running short of the food stocks and the bad state of roads placed more hurdles in our way. The city accommodated about 32 thousand people and Brig. Pritam Singh served the people by getting constructed with the active co-operation of the people the airship aid thereby creating confidence in the peoples mind. Next came our accession to India. Article 370 of the Indian Constitution confirmed this event. No power on earth can liquidate this relation ship. In my opinion this accession is in no way new to us. Thirdly the people outside Kashmir (if not within it) anxiously ask about the future of Kashmir but I do not feel perturbed by it in the least I believe it firmly that no fear of any sort can frighten us in the presence of Sher-I-Kashmir. Pandit Jawahar Lal Ji Nehru. The Deputy Prime Minister, Bakshi Ghulam Mohd. And the talented jurist Hon'ble the Revenue Minister I may reveal it further that the dream of becoming chakarvarti (Independent) ruler occupied the mind of our Maharaja in the past. Let me announce it that this proud prestige belonged to Mahatma Gandhi alone who won though his ideology and wisdom the heart of the missions all over the world.

Our Chakarvarti Raja is represented in Mahatma Gandhi alone who left us after winning our hearts. Accordingly, I would request the Maharaja to dedicate himself to the service of common people and spend his wealth for the people's betterment. The Maharani too has helped the poor. I wish she were made our first president.

Note:- the Hon'ble Lady Member resumed her seat and then rose again to say something more, but the Hon'ble President called her to order and remarked as under:-

This is not the right manner. The Hon'ble Member should learn to take her seat when asked to do so once. It tantamount to the insult of the House If a member starts speaking again after resuming his seat.

Note:- the Hon'ble Lady Member then resumed her seat.

Hon'ble President:- Mr. Abdul Aziz Shawal.

Observations in support of the report Qaid-I- Azam have placed before the House in regard to the recommendations of the Basic principles Committee. Almighty God has created mankind for a definite purpose in this world and has conferred upon them the two outstanding merits. In the first instance he is obliged to fulfill his duties towards God and in the second place realize his duties unto mankind. As regards the former, yet it suffice to say that the man enjoys a spiritual communion with the God and one who adheres to its privileged to have his proximity. And concerning the latter. I maintain that it consists of service to mankind by way of justice, mercy, fraternity and affection. By these two sterling virtues man can justify his existence in the world. If however man is found to neglect these two commitments and practices violence. Injustice and tyranny over his actions and for the special mission of delivering mankind from this catastrophe, a leader is brought into being.

In every age of terror and tyranny, God the powerful has sent His Prophets to deliver humanity from thje shackles of woe and misery, as is plainly evident from the shackles of the Land of Arabia. The appearance of the blessed prophet of Islam on the scene was necessitated by exceedingly rigorous and rude behavior of those in power there. The prophet was to deliver them from the

hell of disaster surging over their heads. For this very reason defiance and elimination of injustice. Shri Ram Chandra ji Maharaja waged a crusade against the devil Ravana who tormented his people with violent and tyranny. The example of Moses too, recounts the same stern truth. He was brought up under the care and patronage of the Pharaoh; and in spite of his fatherly treatment on the part of the Pharaoh he (Moses) never hesitated to deprecate his injustice and tyranny.

Ours too is a similar tale. The population of the 40 lakhs was economically disturbed classes – the upper and the lower. Tillers belonged to the lower class who were deprived of everything produced by them. By their landlords. In spite of hard labour in the fields they could hardly make two ends meet. This and many more causes made the emergency of a liberator inevitable; and fortunately enough Sheikh Mohd. Abdullah happens to be that venerable personage. He witnessed with own eyes. This tragic state of affairs and observed with equal sympathy the pathetic condition of Hindus, the Muslims and the Sikhs of this land. To deliver them from this agonizing lethargy he started up the movement of 1931. The movement was guided by reasons and principle and was not aimed at a particular dynasty or religion. He pleasingly underwent tribulations and trials for the liberation of his homeland, which are too well known to need any mention at present. He was confined to prison and thousand of human beings fell martyrs to cause he upheld. At last, after twenty-one long years of struggle and work we have touched the pinnacle of our destiny and purpose. The system of the frustrated Government has no other alternative then to vanish. It needs must be eliminated just like a withered plant. With these words I terminate my discourse in support of the recommendation move in the House.

Hon'ble President: Mr. Habibullah ;

Hakim Habinullah : Sir, the Hon'ble Members of the House have dealt in full detail with the interim Report submitted by the Basic Principal committee. The Hon'ble Leader of the House was pleased enough to throw light on the issue. He has declared it in explicit terms that to people alone the power belonged and to the people it should pass. People alone can think of the country's betterment and

mould their destiny in the way they please. The issue, however, involves a thorough historical knowledge on our part to show the manner in which the kings of the past ruled History stands witness to the trumpet declaration of the Divine Right of Kings by the Stuart Kings of England. They maintained that it was God alone who had conferred upon them the proud office of the Kingship and the right to rule over the people. They held the power, which nobody could snatch away from them.

Consequently there was a great revolt involving much bloodshed and depredation, which is too well known.

Charles 1st of England who happened to rule at that time got himself condemned to gallows, simply because he attempted to thrust his mastery over the people and thus a tragic fate was suffered by a person who attempted to confine the privilege of power to his own self.

Charles I was the first English monarch. Who lost his life in an attempt to defend a stand that stood in clear contrast to the popular will?

The same is the story about the Czar of Russia. The dissatisfaction of the impoverished populace and miserable plight of the toiling masses jointly conspired to mark his doom. We wish that the forlorn and downtrodden humanity of our land enjoyed the manifold blessings of equality, liberty and fraternity. This is possible only when democratic Government is established and all power is transferred to the people. The second event is that of France. The autocrat monarch of that country proclaimed himself as an omnipotent ruler on the basis of this hereditary kingship. The people of France-quite naturally objected to this reckless and unjustified procedure with the result that Louis was condemned to death and shared the fate of his English counter part. Charles the first.

These events go to reveal a great and stubborn truth; namely that under the exigencies of the times. The decrepit system of kingship should vanish to make room for the new system of Government. Wherein every human being was assured of equality and progress in every walk of life. The different elements and forces that would stand as hurdles in the way of peoples accession to power have no other alternatives than to vanish. It is through the popular assumption of

power that the death of aristocracy and the advent of parental Pease is reared and assured.

I would like to mention one example that Rousseau preached in times of the French Revolution, maintaining that it was the popular assumption of power that alone held forth, with sincerity, the promise of the people betterment.

“only that law is a real law which is in accordance with the general will. That this general will can be expressed in a mass meeting of the people” Was his viewpoint. it will not be out of place to mention the views advocated by Hobbs. Though he slightly differs from the view point of Rousseau yet he does not fail to voice the crying need of the time. He states” the people have no right to rise against the Sovereign. The Sovereign possesses unlimited powers and, however that arbitrarily is exercised the people must bey.” He maintains that investment of power in a single person was sure to produce a despot.

In the setting up of a popular and just Government in our State we do not take into consideration any particular religion or caste. We do not like it at all that single person should rule over us conferring extravagant benefits upon his favoured few and condemning the major lot of population to a dire poverty and want. We passionately intend that the system of Government in our land should secure the maxim of co-operation on the part of every individual living our State and to achieve this end we will not hesitate from undergoing severest tests and trials, we are even prepared fight our kiths and kins to nullify leftist forces, but will never agree to the investment of power in single person or a party.

Hon’ble President:- Hon’ble Mr. M.A.Beg.

Hon’ble M.A.Beg:- Sir, the resolution that a complete democratic system of Government be established in the State the system of the hereditary rule be abolished and the office of the Head of State be made elective has been provoking speeches on all sides in the House for the last three days.

Permit me to reveal, Sir, that to non-cut of the seventy-five members constituting the House and representing every nook and corner of the State, was any whip issued by the Hon’ble leader of the House or party nor was any directive issued to the members to follow any definite line in their speech on the resolution. But

still the consideration of a three day discussion did not disclose the slightest refutation of the text and substance of the resolution, where on the other hand every Hon'ble Member supported it to its last word. Today the movement of the National Conference may genuinely announce to the forty lakh of people living in Kashmir and for that matter the forty crores of human it, inhabiting India, that the resolution enjoys the wholehearted support of every child of Kashmir without the discrimination of Harijan, Hindu, Sikh or Musalman. I am sure that the few narrow-minded and communal elements in India and fewer of the same in Kashmir would try to create misunderstanding abroad. No reasonable person or the leader of a party whether he is a Hindu, Muslim or Sikh has disagreed with the resolution. I have stood to support the resolution in the same way as many of my friends have done but I believe the issue has been dealt with in all its bearings and does not admit of any further elucidation. In the beginning the beloved leader of our country in a comprehensive and learned discourse explained the stages in the evolution of Democracy and related to us the grass misdeeds and the woeful inflictions of an autocratic rule from the very dawn of civilization. The issue was tackled by him in such a wide detail that I simply cannot add anything to it and has only to say that this notorious institution should be toll-ally done with. There is no earthly reason for the existence of this institution in the modern world although it might have a place in history. Before concluding my brief speech in support of this resolution, I would like to draw the attention of this house towards such points, which go to prove the undesirability of retaining such an institution. Let the misleading elements in our country enquire whether they live in Kashmir. India or in any place of the world as to how this move has been hailed by the members representing the country right from Kargil to Kathua and from Kishtwar to karnah. (Cheers) It would certainly be absurd and degrading on their part to think even now that the people of Kashmir are not unanimously behind this move. To those of my friends who in vain try to rouse the sentiments of the innocent and mislead the people into the belief that the dynastic rule could alone ensure protection to the minorities. I want to tell that their efforts to reinstate and grant a fresh lease of life to the dynastic rule would

certainly end in smoke even though they may try to exploit the illiterate, simpleton and poor masses of our land. our movement has proved that when an attempt was made to destroy our country by invasion from the West, how boldly the simple and illiterate villagers of Lolab protected the person and honour of the women, daughters, sisters and mothers of the minority community. Let us repeat the episode when Hari Singh ran away to Jammu leaving the people of Kashmir at the mercy of the raiders very shamelessly sent some vehicles from Jammu to evacuate Main Rajputs of the Narwaw sector of our country as if they were the only non-Muslims living in Kashmir. At that critical moment, the same Rasula, Ramzana and Amira who had suffered the yoke or their servitude for generations came forward to kiss their feet and provide them shelter at the sacrifice of their own near and dear ones. (Cheers). Let the friends whom the exploiters blackmail in the name of the minority protection, simply to reinstate the defunct institution of the hereditary rule that whatever the world may think or believe. We trust that the ultimate and effective protection of our people is embodied in the person of Sher-I-Kashmir (Cheers).

Let the world not treat it as an exaggeration or a mere rhetoric. It is the resonance that vibrates from the ultimate depths of my heart. No just historian would forget to record that every daughter, son, sister or mother belonging to the minority communities. However, microscopic in number enjoys the same protection of life and honour, as the person of Sher-I-Kashmir (Cheers) rather more than this. Kahsmiries are prepared to sacrifice every thing they hold dear for the sake of their colleagues. If in spite of this an attempt at exploitation persists. I would take it for sheer disloyalty, an outright injustice of history and non-recognition of our grand movement. I earnestly hope then, that the forty crores of Indians and the forty lakhs of Kahsmiries would never allow this fraud to flourish.(Cheers). To those stupid friends who consider themselves as friends of India and Kashmir as I would like to point out that it is foolish to expect that landlordism, dynastic rule and banker's interest would continue to flourish in spite of Kashmir's accession to India. This speaks of great folly on their part. It is just possible that their action may not be deliberate but if they act deliberately they

are the worst enemies of India and Gandhism. This is as impossible a thing to believe, as it is to expect the sun to rise from the west. Kashmir has acceded to India on certain definite principles wherein the landlordism has no place. Those who don't recognize this fact try to shake the very foundations of this accession. There are hundreds of arguments to show as to why Kashmir acceded to India and not to Pakistan. The strongest argument, which appeals to the people, is that people of Bhawalpur numbering lacs have been crying desperately for moving resolution for grant of responsible Government in their State, but it is impossible. None of the five of six unfortunate States, which have joined Pakistan, can venture to express their demands openly as it is a sin to talk of liberty there. They cannot express their wish for responsible Government and for that matter give vent to their belief that sovereignty belongs to the people. If you wish to see the recommendations of New Kashmir for which we have borne untold sufferings, practiced and implemented both here and India to which we have acceded it is necessary to put an end to the system of landlordism and hereditary ruler ship etc. and if any hurdles are put in our way these will lead to grave consequences.

"As brick by brick. Mr. President, we have been building the edifice of our unity with India and step-by-step we are constructing that huge and wide structure. If you will create hurdles in our way, it would remove the corner stone of our unity with India"

I believe brick by brick are building the edifice of our accession of India. If we are prevented from doing this and not permitted to put an end to the autocratic rule I do not believe how by such an act could Kashmir ever become the friend of India. Some communalistic organizations the Praja Prishad of Jammu and R.S.S. if India, for instance, would not favour this blessed move at all and the world will admit that they loosen the ties of our accession. We discard Pakistan simply because her nine crores of subjects don't enjoy the privilege of framing their own constitution and further more for the fact that the civil liberties are unknown there and people cannot venture to demand these. Such steps would have certainly gone to jeopardize the interests of landlords like Khan Abdul Qayum. In the prison cells of Pakistan are allowed to rot the most heroic

champion of the Indian Independence struggle (Khan Abdul Gaffar Khan) and that fact makes Pakistan exclusively detestable for us. The charges of the medicines administered to these heroic fighters of Independence in jails are recovered by attachment of their relative's property. There is no place in Pakistan for a person who respects himself. India is the friend to Kashmir and you should be a person who respects himself. India is the friend of Kashmir and you should allow us to traverse this path of friendship with steadfastness. We have chosen this path for the sake of Independence, and if some body acts as an obstacle in this way of progress, he will be committing a great mistake. Many persons have misrepresented our land reforms and that it is stated these will not be supported by India you should know that the Prime Minister of India not only supported this move but also is envious of our achievements. We expect that India would reprimand those communal elements that oppose this constructive move. Many Hon'ble Members including Mr. Bhagat Ram, Mr. Abdul Khaliq and Mr. Krishan Dev Sethi have spoken of the atrocities committed by the autocratic rule, and duly objected to payment of six lakhs of rupees from our treasury. But I maintained that even if he gives up the path of tyranny to become an angel and or for that matter instead of drawing a bounty of six lakh rupees he gives to us six crores even then the unfailing decision of people that he has no room under the new set up would stand as he cannot fit in the new system of things any more.

“ Absolute power corrupts absolutely.”

Such an institution has no guarantee for progress here. Here under New Kashmir there is no room for such institutions as perpetuate feudalism. Therefore, I, appeal to all quarters to beware of the trap that these dying institutions might still lay in our path. appeal to the progressive opinion of India to give us full support in our measure as they have given us hitherto. The unity of Kashmir will not only help us in the implementation of the proposal but also give the full moral and political support which this measure deserves. With these words, I give full support to the motion and urge that these proposals be forthwith implemented and that the future. Head of the State be elected and responsible to the people in full sense of the world (Cheers).

Hon'ble President:- Hon'ble S.M.Abdullah.

Hon'ble S.M.Abdullah:- Sir, I am very pleased to observe that the discussions provoked by the report of the Basic Principles Committee presented to the House by me have been based on certain defined Principles and no reference was made to any individual during the course of discussion.

As a matter of fact the issue before us is a question of principle which applies not only here but to all places where such institutions exist.

The question does not concern Maharaja Hari Singh alone but applies to every one representing such an institution whether he be Maharaja Hari Singh, the Nizam of Hyderabad, the Maharaja of Baroda, or Nawab of Junagarh.

The majority of these Rajas, Maharajas or Nawabs indulge in extravagant luxuries at the cost of hard toil and labour put in by their subjects.

Even in the changed circumstances of the present day, when democratic system of Government is fast developing these Rajas, Maharajas and Nawabs persist to be heedless of the said lot of their subjects; and never mind to pay any attention towards the betterment of any person other than their own person.

To elucidate the fact, let us take the instance of the Nizam of Hyderabad. In spite of his being conscious of the fact his rule is on the verge of extinction yet not alive to the interests of his own half crore impoverished and famine stricken subjects. If you ever happen to visit Hyderabad you are sure to meet people reduced to skeletons due to starvation. It was from their sweat and toil that Nizam was able to procure countless millions for himself but he does not spend a single penny for their improvement. On the other hand he is founding trusts for the benefit of his children and other relatives.

His mind is least perturbed by the tragic fate of the dwindling millions of famished Taluqana and the only purpose he is bent upon to achieve at present is to safeguard the interests of his near and dear ones. The Maharaja of Baroda also transferred his jewels valuing crores of rupees to the safe vaults of England and 'America, and did not leave any investment in India you would fail to catch sight of the grand mansions they have erected, if you ever happen to tour the foreign countries, you would also discover that they have huge bank balances in

the European banks. All this money has been accumulated by exploiting the hard earned money of their poor subjects. Their wealth is generally spent on Horse races and other luxuries. Mr. Krishan Dev Sethi was not far wrong in protesting that our ills still existed with us; and that the Kandi Illaqas needed water as badly as in the old regime.

In these hard times too we pay six lakhs for Privy Purse besides the huge amount of nine lakhs he receives from India. How is thick money spent? You must have read in the news papers how mercilessly this amount is being spent. The Nawab of junagarh too sails in the same boat. His extremely fond of dogs and his fancy would have it. He thought of celebrating marriage of his dog and did not hesitate to waste lakhs of rupees. This happened at a time when the subjects of his State were practically starving. The impoverished masses who fed his purse utterly failed to invoke his sympathies while he spent fanciful amount on celebrating the marriage of his dog.

I leave it to your good reason to judge as to how such a rotten system of Government can claim to survive. None but a person devoid of mental equilibrium would support the continuance of such an out model system.

It was a matter of great pleasure for me to find that the issue has been dealt with in its correct perspective and it was gratifying to note that personalities were not brought in. As a matter of fact the issue neither pertains to any religion nor to any particular family. It is only a question of principal.

We are impatient to see the end of a system, which brought havoc on the poor masses. In my previous speech I invariably dropped many hints with a view to impress upon people the basis of this proposal and I was pleased to observe that the Hon'ble members have taken into consideration all the relevant factors during the discussions.

Let me request only with your permission Sir, that we adopt the Interim Report of the Basic Principles Committee and accept the recommendation contained therein as under: -

“Sir, I move that this interim Report of the Basic principles committee be adopted and the recommendation contained therein be accepted”

Hon'ble Bakshi Ghulam Moh'd:- Sir, I second the motion of the Leader of the House.

Hon'ble President:- Now the question is that the recommendations contained in the Interim Report of the Basic Principles Committee:-

- (a) the form of the future constitutions of Jammu and Kashmir State shall be wholly democratic.
- (b) The institution of hereditary Ruler ship shall be terminated.
- (c) The office of the Head of the State shall be elective, be adopted.

These Hon'ble Members who support the Motion "Aye" would say "Aye" and those who oppose may say "No".

Note:- the report was adopted unanimously. (Prolonged (Cheers).

Mr. D.P.Dhar : Permit me sir, to move the following resolution: -

"This Assembly resolves that the recommendations contained in the Interim Report of the Basic Principles Committees as adopted by the Assembly be implemented and that for this purpose the Drafting Committee be directed to place before this Assembly appropriate proposal in the form of resolution or otherwise, a period of one month from the date of passing of this resolution"

Mechanism has already been settled in the resolution according to which the Drafting Committee has been appointed by this House. This resolution Sir, is merely formal in character and seeks that this House may direct the Drafting committee to place before this Assembly appropriate proposals which will contain appropriate recommendations of the Basic principles committee which have been adopted by the House today.

Mr. Mir. Qasim : Sir, consequent upon the adoption of the Interim Report of the Basic Principles committee by the Hon'ble Members of this House after due expression of their views the motion moved by Mr. D.P.Dhar regarding implementation of the recommendations of the Basic principles committee and directing Drafting Committee to submit appropriate proposals constitutionally is seconded.

Hon'ble President:- the question is that the "recommendations contained in the Basic Principles Committee as adopted by this House be implemented and for

this purpose the Drafting Committee be directed to place before this Assembly appropriate proposals in the form of resolution or otherwise, within a period of one month from the date of passing of this resolution.”

These Hon’ble Members who support the resolution may say “Aye” and those who oppose may say “No.”

Note:- the resolution was adopted.

The business of the day is finished and I adjourn the House till such date as I may announce subsequently.

Note:- (The House then adjourned sine die).

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

Fourth Session

August, 1952

Monday, 11th August, 1952/27th Sawan, 2009.

The constituent Assembly met in the Constituent Assembly Chamber Srinagar, at Eleven of the Clock.

Hon’ble President (Mr. G.M. Sadiq) in the Chair

SIGNING OF THE REGISTER

Hon’ble President:- Mr. Ghulam Rasool newly elected member from Kulgam will please sign the register.

Note:- Mr. Ghulam Rasool, member from Kulgam Constituency signed the Register amidst Cheers.

**CONDOLENCE RESOLUTION ON THE DEATH OF
MR. GHULAM HASSAN BUTT.**

Hon'ble President:- Hon'ble Sheikh Mohd Abdullah.

Hon'ble Sheikh Mohd Abdullah:- this Assembly places on record deep sense of grief at the untimely and sad death of Mr. Ghulam Hassan Butt, member of this House from Nandy Constituency (Tehsil Kulgam) and requests the Hon'ble President to convey the heart-condolence and sympathy of this House to the family of the bereaved."

*Sir, the lamented colleague was present in this House during the last Session and during the course of that Session he fell seriously ill and passed away after undergoing treatment for a few days in the hospital. Late Kh. Ghulam Hassan Butt was a Member from Kulgam and was a respectable worker of the National Conference. He was like a zealous worker, associated himself with our freedom movement from its very inception and had to undergo imprisonment four times under the orders of the then irresponsible Government. Finally our late colleague was arrested in 1946 in connection with the quit Kashmir Movement and was imprisoned in Jammu jail where it was terrible hot; the treatment of the then Government was quit callous towards the workers of the freedom movement. Late Khawaja Ghulam Hallan Butt fell prey to a fatal disease due to severe heat in the jail and despite enough treatment he did not recover completely and passed away during the last Session. So far as the remarkable success of our movement in Tehsil Kulgam is concerned the credit therefore mostly goes to our late young and zealous worker. We very much regret that it is not the country, alone which has been deprived of an honest. Loyal and a brave soldier but the organization, which is responsible to lead the freedom movement towards progress, has in him lost a colleague of note. It was not Khawaja Ghulam Hassan

alone who took active part in the freedom movement rather all the members of his family offered active co-operation to the organization in carrying ahead the freedom movement. I and my other colleagues are deeply moved by the untimely death of Kh. Ghulam Hassn Butt. Though it is my conviction that death cannot be warded off and it must come soon or late. May it be a young man an old man or a child, one has to pass through this final stage of death. But there is a tremendous difference between death of deferent men. Death of certain persons is mourned by his bereaved family and his relatives only while the death of some others causes extreme grief not to his survivors but to other persons as well. I feel that the gap created by the said demise, of Kh. Ghulam Hassan Butt will take a long time to fill adequately. My colleagues and I are deeply moved by his untimely death and I would request you, Sir, to convey our feelings to the survivors of the deceased.

Hon'ble M.A.Beg:- Sir, I rise to associate myself and some of my District colleagues with the feelings expressed by the Leader of the House on the said demise of one of our oldest and sincerest colleagues-Kh. Ghulam Hassan Butt. While I was working in the District with our deceased colleague, who too was working as a commerade, I always found in him ever increasing enthusiasm and zeal for freedom at whatever cost that zeal may be, which is the characteristic of every patriot. He did not, hesitate whenever there was a call from the nation and at once plunged into struggle. I found him always a sincere friend of Kisans, who where extremely down trodden the country. He struggled against the Jagirdars and I may say that he was the foremost in the struggle of for uplifting the kisans. The gap created amidst ourselves by his untimely death, cannot be adequately filled. The National Conference has suffered great loss and so have the other colleagues who have to work in that District. I pray that his soul may rest in infinite mercy and peace and may console the bereaved heirs that the deceased has sift behind mourn his loss.

Hon'ble Shyam Lal Saraf:- Sir, permit me to associate my feelings with those of the Hon'ble Leader of the House in regard to the passing away of my late venerable colleague Kh. Ghulam Hassan Butt. I have had several occasions to

work and share imprisonment with the deceased. The courage and the sagacity displayed by him during the period have left an indelible impression on our minds. With these words I would beg of you to convey our feeling to the survivors of the deceased.

Kh. Ghulam Mohammed Jalib:- Sir, about the resolutions of of the Hon'ble Leader of the House lamenting the death of Kh. Ghulam Hassan Butt. I would feel content to say this much.

"May God grant peace unto him. The deceased possessed a good many qualities".

***Mr. Abdul Gani Trali:-** Sir, while supporting the resolution moved by Hon'ble Leader of the House, I would like to say that the services rendered by the deceased right from the start of the freedom movement till his death are highly laudable. I remember well that once when he fell ill in the jail, he was asked that he could be released on parole but he vehemently declined the offer and remarked that he would prefer death rather than to be released on parole. When a voice was raised against Chakdari and Jagirdari system the deceased rendered his services not only to Kulgam but also to Pulwama and left no stone unturned to create consciousness in the mind of the Kisans. With these words I support the motion.

***Hon'ble President:-** Before I put the motion to the House I would like to associate myself with the feelings expressed on the sad demise of Kh. Ghulam Hassan Butt. Every Hon'ble Member of the House is fully aware of the fact that the sacrifices made by late Kh. Ghulam Hassan Butt to ameliorate the lot of the people of the country are worthy of being recorded in golden letter in the history of our struggle for freedom. With these words, I express my deep regret on the untimely death of the deceased and would ask the members to keep standing as a mark of respect and pass the resolution which I shall read out to the House.

Note :- all the members kept standing and the Hon'ble President read out the following resolution.

"This assembly places on record its deep sense of grief at the untimely and sad death of Mr. Ghulam Hassan Butt. Member of this House from Nandy

Constituency (Tehsil Kulgam) and requests the Hon'ble President to convey the heartfelt condolence and sympathy of this House to the family of the bereaved."

Note : - The resolution was adopted unanimously.

Hon'ble President : Hon'ble Sheikh Mohammad Abdullah.

Hon'ble Sheikh Mohd. Abdullah : Sir, I crave permission to make a statement before the House in regard to constitutional relationship between the Jammu and Kashmir State and the Indian Union. As the Hon'ble Members are aware, during the last Session of the Constituent Assembly, the Basic principles committee had submitted a report making certain specific recommendations about the future Head of the State. The House, while accepting these recommendations had charged the Drafting committee to present for the consideration of the Assembly, a draft resolution incorporating the proposed principal for the election of the Head of the state. The Drafting committees will no doubt, submit its report to the House during this session.

Since the changes proposed by this assembly involved corresponding adjustments in the Indian constitution the Government of India desired that it should have time to discuss with our representatives the proposals pending in this Assembly. Accordingly, we sent a delegation headed by Hon'ble M.A.Beg to Delhi. The Government of India also availed of this opportunity to discuss with our representatives other matters pertaining to the constitutional relationship; it became necessary for me and some of my other colleagues in the Government to participate in the talks. I am now in a position to inform the House that certain broad principles have been laid down and certain decisions have been tentatively arrived at between the two Governments.

Before I apprise this House of the details of these tentative decisions I wish to review briefly the background of our relationship with India. For sometime past, there has been a good deal of discussions of this important question both here as well as outside. In the heat of public controversy, which this question aroused, the points at issue were sometime obscured.

May I mention here the developments, which led to the establishment of our relationship with India in October, 1947. After the Independence Act of 1947

was passed by the British Parliament, the Dominion Status was conferred on India and Pakistan: and the British Parliament having lapsed the Indian States became Independent. They were however, advised to join either of these two dominion. It is a tragic commentary on these arrangements proposed by the British Government that the position of these Indian States comprising one fourth of the total population of the entire Indian sub- continent. Was left absolutely vague and nebulous with the result that the future of the State's people came to be subjected to the vagaries of their respective rules. Many of them acceded to either of the two Dominions after a good deal of procrastination while others hesitated and delayed the final decision to the detriment of the interests of the people living in these States.

The Jammu and Kashmir State was one of the States whose ruler had not taken a decision in regard to accession. While the State was in the condition of uncertainty and indecision and while the national movement was seeking transfer of complete power to the representatives of the people and the then state Government was indulging in repression in certain areas of the State particularly in Poonch, the State was suddenly invaded. Thousand of tribesmen from Pakistan, as well as Pakistan nationals, launched a savage attack against the people of this State. The administration then in charge of its affairs proved singularly ineffective to cope with the grave emergency and consequently it collapsed all of a sudden. At that critical moment in the history of the State, the National Conference stepped into avert what looked like total annihilation at the hands of the raiders from Pakistan who were later proved to have been abetted by the Pakistan Government. The National Conference one mobilized all sections of the population in an effort to prevent the conditions of chaos and dislocation from spreading to the entire State. This factor was mainly responsible for the splendid moral displayed by the people of Kashmir who were inspired to heroic deeds in their resistance against the invaders.

It was, however, obvious that in face of the over whelming number of the well armed raiders, unarmed people of Kashmir could not hold out for long. Consequently, it became urgently necessary for us to seek the assistance of the

friendly neighbor which alone would enable us to throw back the invaders, In that critical moment, we could turn only to India where the Government and the people had demonstrated their sympathies for the ideals for which we were fighting the raiders.

But legal complications came in the way of India rendering the State any immediate help for its defense against aggression. The Government of India Could send their army only if the State would accede to that Dominion. In accordance with the Indian Independence Act of 1947, the instrument of Accession had to be executed by the Ruler of the State in order to make it legally valid. Consequently, with the backing of the most popular organization in the country, the Maharaja signed the deed of Accession on the 26th of October 1947, and the State of Jammu and Kashmir became part of the Indian Dominion.

The basis of our relationship with India is the Instrument of Accession which enables our state to enter into a union with India. In accordance with the terms of the Instrument, certain powers were transferred to the Center. The principle matters specified for this purpose in respect to which the Dominion Legislature could make laws for this state were:

- (a) Defence,
- (b) External Affairs; and
- (c) Communications.

This arrangement involved a division of sovereignty, which is the normal feature of a federation. Beyond the powers transferred by it to the Dominion the state enjoyed complete residuary sovereignty.

These terms the association of our State with the Dominion of India were maintained; and subsequently, when the Constituent. Assembly of India was charged with the task of framing a Constitution, this over-riding consideration was kept in view in determining the position of the State in the proposed Constitution earlier to this, it had been agreed between the two Governments that “in view in special problems arising in respect of this State and the fact that the Government of India have assured its people that they would themselves finally determine their political future” a special position should be accorded to Jammu and Kashmir

in the future Constitution so that a limited field of the Union Powers over the State is ensured. Four representatives were nominated from the Jammu and Kashmir State to the Constituent Assembly of India. These representatives participated in the deliberations of the Constituent Assembly of India at a time when the bulk of the Indian Constitution had already been adopted. It was at this stage the constitutional position of the State was determined in the Constitution of India. The representatives of the Jammu and Kashmir State reiterated their views that our association with India should be based on the terms of the Instrument of Accession. It was also made clear that while the accession of the Jammu and Kashmir State with India was complete in fact and in law to the extent of the subjects enumerated in this instrument, the autonomy of the state with regard to all other subjects outside the ambit of the Instrument of Accession should be preserved.

Taking into account the special circumstances in which this State was placed, a special constitutional arrangement was evolved and provided in Article 370 of the Constitution which defines the position of Jammu and Kashmir as follows:-

“Notwithstanding anything in this Constitution.-

- (a) the provision of Article 238 shall not apply in relation to the State of Jammu and Kashmir;
- (b) the power of Parliament to make laws for the said States shall be limited to:
 - (i) those matters in the Union list and the Concurrent list which, in consultation with the Government of the State, are declared by the president to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and
 - (ii) such other matters in the said lists as, with the concurrence of the Government of the state, the President may by order specify.

Explanation : For the purpose of this Article, the Government of the State means the person for the time being recognized by the President as the Maharaja of Jammu and Kashmir acting on the advice of the council of Minister for the time being in office under the Maharaja's proclamation dated, the fifth day of Mach, 1948.

- (c) the provisions of Article 1 and of this article shall apply in relation to that State :
- (d) such of the other provision of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify.

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of the Government.

- (2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (i) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened it shall be placed before such Assembly for such decision as it may take thereon.
- (3) Notwithstanding any thing in the foregoing provisions of the Article the President may, by public Notification, declare that this Article shall cause to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the constituent Assembly of the state referred to in clause (2) shall be necessary before the President issues such a Notification.

While the State of Jammu and Kashmir is included in the list of state in part B of Schedule 1 of the Constitution, it is apparent from a perusal of this Article that the provisions of Article 238 relating to the Constitution of the States in part B shall not apply to the State of Jammu and Kashmir. In view of the special position and character of the state and with a view to regulate the relationship of the state with the Union of India, Article 370 was devised

The other important feature of this constitutional setup is that the matters specified in the Instrument of Accession shall apply in relation to the Jammu and Kashmir state in consultation with the Government of the Jammu and Kashmir state and all other matters which do not fall within the terms of the Instrument of Accession shall not apply in relation to our state except with the final concurrence of the Jammu and Kashmir constituent Assembly.

Here I would like to point out that the fact that Article 370 has been mentioned as a temporary provision. The Constitution does not mean that it is capable of being abrogated, modified or replaced unilaterally. In actual effect, the temporary natures of this Article arise merely from the fact that the power to finalize the Constitutional relationship between the State and the Union of India has been specifically vested in the Jammu and Kashmir Constituent Assembly. It follows that whatever modifications, amendments or exceptions that may become necessary either to Article 370 or any other Article in the Constitution of India in their application to the Jammu and Kashmir State are Subject to decisions of this sovereign Body.

Since a good deal of confused thinking and informed criticism is indulging in by interested people. I would like to point out here that the Constitution has confined the scope and jurisdiction of the Union powers to the terms of instrument of Accession with the proviso that they may be extended to such other matters also as the President may by order specify with the concurrence of the Jammu and Kashmir Constituent Assembly. The special problems facing the

State were thus taken into account and under the constitution the relationship approximated to that subsisting under the Instrument of Accession.

The constitution of the Indian Union, therefore, clearly envisaged the convening of a constituent Assembly for the Jammu and Kashmir State, which would be, finally competent to determine the ultimate position of the State in respect of the sphere of its accession which would be incorporated as in the shape of permanent provisions of the Constitution.

This, briefly, is the position, which the Constitution of India has accorded to our State. I would like to make it clear that any suggestions of altering arbitrarily this basis of our relationship with India would not only constitute a breach of the spirit and letter of the constitution, but it may invite serious consequences for a harmonious association of our state with India. The formula evolved with the agreement of the two Government remains as valid to day as it was when the Constitution was framed and reasons advanced to have this basis changed seem completely devoid of substance.

In arriving at this arrangement the main consideration before our Government was to secure a position for the State which would be consistent with the requirements of maximum autonomy for the local organs of State power which are the ultimate source of authority in the State while discharging obligations as a unit of the federation.

I would, therefore, plead that the validity of such constitutional arrangement should not be appraised academically but in the proper context of the extraordinary circumstances through which the State has been passing for the last five years or so. Since the state was invaded in 1947, the last situation here has been bristling with such compelling urgencies, as needed drastic administrative and economic changes. The revolutionary conditions prevailing in our state could be coped with only through extraordinary measures. The Government of the State was, therefore, called upon to take vital decisions, which could not wait. Accordingly it enacted laws, which were calculated to transform the social and economic fabric of the common people. With the improvement in the

internal situation of the Country, the necessity for a legislature becomes obvious. Consequently it was decided to convince a constituent Assembly for the State elected on the basis of adult franchise. This Assembly accordingly came into being in October, 1951:

The Hon'ble Members are aware that as the Leader of the National Conference party. I indicated in my inaugural address the scope of the decisions which I felt the Constituent Assembly would have to take, I listed the four main issues as pertaining to the Assembly, viz the future of the Ruling Dynasty payment of compensation for the land transferred to cultivators under the Big Landed Estates Act, Ratification of the State's accession to India as well as the framing of a Constitution for the State. While discussing these in my address to this House. I had given clear indications of my party views in regard to them. I had also an occasion to place my point of view on these issues before the representatives of the Government of India and I had the satisfaction that they approved of it.

When the Constituent Assembly commenced its labours, it had to tackle these issues in course of time. It took decision in regard to payment of compensation to landlords and it came to the conclusion that no compensation was justified.

The constituent Assembly has, at present, under its consideration the future of the Ruling Dynasty. In this connection the Basic Principles Committee recommended that the Institution of hereditary rulership in the state should be abolished and in future the office of the Head of the State should be elective. While accepting the recommendations of the Basic Principles Committee this Assembly charged the Drafting Committee place before this House appropriate proposals for the implementation of these recommendations.

As I said in the beginning of my statement such a fundamental decision involved corresponding adjustments in the Indian Constitution and in order to finalize the position in respect of this issue and other matters pertinent to it. I and my colleagues had discussion with the representatives of the

Government of India as a result of which we arrived at some tentative agreements, the details of which I wish to place before the House.

The Government of India hold the view that the fact that the Jammu and Kashmir State was the Constituent unit of the Union of India led inevitable to certain consequences in regard to some important matters namely:-

- (a) Residuary powers;
- (b) Citizenship;
- (c) Fundamental Right;
- (d) Supreme Court of India
- (e) National Flag;
- (f) The President of India;
- (g) The Headship of the State;
- (h) Financial Integration'
- (i) Emergency Provision; and
- (j) Conduct of election to House of Parliament.

Permit me, Mr. President, now to deal with each one of these items and also the agreement arrived at between the Jammu and Kashmir Government and the Government of India in relation to them

RESIDUARY POWERS

It was agreed that while under the present Indian Constitution, the Residuary powers vested in the Centre in respect of all States other than Jammu and Kashmir, in the case of our State, They vested in the State it self. This position is compatible with Article 370 of the Indian Constitution and the Instrument of Accession on which the Article is based. We have always held that the ultimate source of sovereignty resides in the people. It is, therefore, from the people that all powers can flow. Under these circumstances, it is up to the people of Kashmir through this Assembly to transfer more powers for mutual Advantage to the custody of the Union Centre.

CITIZENSHIP

It was agreed that in accordance with Article 5 of the Indian Constitution persons who have their domicile in the Jammu and Kashmir State shall be the citizens of India. It was further agreed 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 acquisition of immovable property, appointments to services and like matters. Till then the existing State law would apply. It was also agreed that special provisions should be made in the laws governing citizenship to provide for the return of those permanent residents of Jammu and Kashmir State. Who went to Pakistan in connection with the disturbances of 1947 or in fear of them as well as of those who have left for Pakistan earlier but could not return. If they return they should be entitled to the rights and privileges and obligations of citizenship.

There are historic which necessitate such constitutional safeguards as for centuries past, the people of the state have been victims of exploitation at the hands of their well to do neighbors. The Hon'ble Members are perhaps aware that in the late twenties, the people of Jammu and Kashmir agitated for the protection of their bona fide right against the superior competing interest of the non-residents of the state. It was in response to this popular demand that the Government of the day promulgated a Notification in 1927 by which a strict definition of the term "State Subject" was provided. I am glad to say that the Government of India appreciated the need for such a safeguard. No definition of the special rights and privileges of the resident of the State can afford to remain static. The need may arise at one stage or that other to liberalize such a definition. The importance of the fact that the State Legislature shall retain powers to be able to effect such modifications becomes obvious in this context.

There is yet another class of State Subject whose interests had to be safeguarded. The Hon'ble Members of this House are aware that on account of the disturbances of 1947 and also as a consequence of the invasion of this country by Pakistan, large numbers of the residence of this state suffered dislocation. We have, therefore, to visualize the possibility of their return to their homes and hearths as soon as normal conditions are restored. It has been

suggested in certain quarters that this protection has been provided only for those residents of the State who are at present stranded in Pakistan. I would like to make it clear, as I have stated earlier, that this protection will operate only when the conditions are normal and such conditions naturally presume that there settlement of the dislocated population, whether Muslims or Non-Muslims cannot be one sided or unilateral.

FUNDAMENTAL RIGHTS

It is obvious that while our Constitution is being framed, the Fundamental Rights and duties of citizen have necessary got to be defined. It was agreed. However, that the Fundamental Rights, which are contained in the Constitution of India could not be conferred on the resident of Jammu and Kashmir State in their entire taking into account the economic, social and political character of our movement as enunciated in the New Kashmir Plan. The need for providing suitable modifications amendments and exception as the case may be in the Fundamental Rights Chapter of the Indian Constitution in order to harmonize those provisions with the pattern of our principles was admitted. Particular care would have to be taken to preserve the basic character of the decisions take by this House on the question of land compensation as well as the laws relating to the transfer of land to the tiller and other matters. The main point to be determined is whether the Chapter of our Fundamental Rights should form a part of the Kashmir Constitution on that of the Union Constitution.

Supreme Court

It was agreed that the Supreme Court should have original jurisdiction in respect of disputes mentioned in Article 131 of the Constitution of India. It was further agreed that the Supreme Court should have jurisdiction in regard to Fundamental Rights, which are agreed to by the State.

On behalf of the Government of India, it was recommended that the Advisory Board in the State, designated” His Highness’s Board of judicial Advisors” should be abolished and the jurisdiction exercised by it should be vested in the Supreme Court of India. That is to say that the Supreme Court should be the final Court of Appeal in all civil and criminal matters as laid down in the Constitution of India

We, however, felt that this would need a detailed examination and consequently it was agreed that we should have time to consider it further.

NATIONAL FLAG

We agreed that in view of the clarifications issued by me in my public statements while interpreting the resolution of this House according to which the old State flag was substituted by a new one, it was obvious that the new State flag was in no sense a rival of the National Flag. But for historical and other reasons connected with the freedom struggle in the State. The need for the continuance of this flag was recognized. The union flag to which we continue our allegiance as part of the Union will occupy the supremely distinctive place in the State.

PRESIDENT OF INDIA

I am glad to inform this House that the Government of India have appreciated the principle proposed by the Basic Principles Committee das adopted by this Assembly in regard to the abolition of the hereditary ruler ship of the State. In order to accommodate this principle, the following arrangement was mutually agreed upon: -

- (i) The Head of the State shall be the person recognized by the President of the Union on the recommendation of the Legislature of the State.
- (ii) He shall hold office during the pleasure of the President:
- (iii) He may, by writing under his hand addressed to the President resign his office;

- (iv) Subject to the foregoing provisions, the head of the State shall hold office for a term of five years from the date he enters upon his office;

Provided that he shall not withstand the expiration of his term, continue to hold the office until his successor enters upon his office.

FINANCIAL INTEGRATION

In regard to this subject, we agreed that it would be necessary to evolve some sort of financial arrangement between the State and the Indian union. But as this involved far reaching consequences, it was felt that a detailed and objective examination of this subject would be necessary.

EMERGENCY POWERS

On behalf of the Government of India, it was stated that the application of Article 352 of the Constitution was necessary as it related to vital matters affecting the security of the State. They did not press for the application of Article 356 or 360.

On behalf of the Kashmir Delegation it was stated that the application of article 352 to the State was not necessary. In the event of war on external aggression item I in the Seventh Schedule relating to the Defence of India applied and the Government of India would have full authority to take any steps in connection with Defence etc. In particular, we were averse to internal disturbance being referred to in this connection, as even some petty internal disorder might be considered sufficient for the application of Article 352.

In reply it was pointed out that Article 352 could only be applied in state of grave emergency and not because of some small disorder or disturbance.

In order to meet our viewpoint, it was suggested on behalf of the Government of India that Article 352 might be accepted as it is with the addition at the end of the first paragraph (1) of the following words;

“but in regard to internal disturbance at the request of with the concurrence of the Government of the State.”

We generally accepted this position, but wanted some time to consider the implications and consequences as laid down in Articles 353, 358 and 359, which was on the whole accepted. In regard to Article 354, we wanted to examine it further before expressing our opinion.

CONDUCT OF ELECTIONS TO HOUSES OF PARLIAMENT

Article 324 of the Indian Constitution already applies to the State in so far as it relates to elections to Parliament and to the Offices of the President and the Vice President of India.

I have put before this House the broad indications of the agreement arrived at between the Government of India and us. As the Hon'ble Members will no doubt, observe, the attitude of the Government of India has been most helpful. A satisfactory position has emerged and we are now able to assess the basic issues of our constitutional relationship with India in clearer terms. There has been a good deal of accommodation of our respective points of view. Both the representatives of Government of India and the Kashmir Delegation have been impelled by the desire to strengthen the future existing relationship to remove all security and vagueness. We are convinced, as ever before, that we have the full support both of the Government and the people of India in the fulfillment of our democratic ideals and the realization of our objectives.

This good will and amity, I am sure, will result in the consolidation of freedom and democracy in our country. I may, however, emphasize that the Supreme guarantee of our relationship with India is the identity of the democratic and secular aspiration, which have guided the people of India as well those of Jammu and Kashmir in their struggle for emancipation and before which all constitutional safeguards will take a secondary position.

It is, of course, for the Constituent Assembly, which is seized of these matters to determine the extent and scope of the State's accession to India. The Assembly may agree to continue this relationship on the present basis or extend its scope as it might like and consider feasible and proper in the course of framing the

constitution for the State. The Hon'ble Member of this Assembly will have an opportunity of discussing these agreements and expressing their views thereon.

I thank you Sir, for affording me this opportunity to place before the Hon'ble Members of the House the result of our recent talks with the representatives of the Government of India.

Mr. Ghulam Rasool Renzu:- Sir, I would request you to permit the Hon'ble Members of the House to have a detailed discussion on the statement. The Hon'ble Members may be given some time to consider all the issues raised in the statement.

Mr. Assad Ullah : Sir, I beg to submit that this is the most vital question which relates to the future of the Jammu and Kashmir State, involving some legal points. It is highly essential that books on Indian Constitution should be made available to the Hon'ble Members so that they may prepare themselves for detailed discussions on the statement.

Hon'ble President: The Hon'ble Member can make use of the Assembly Library.

Mr. Assad Ullah : But copies of the Indian Constitution are not available in the Assembly Library.

Hon'ble President : Hon'ble Members, Mr. Ghulam Rasool has made a request that the Hon'ble Members of the House may be permitted to have discussion on the statement. I think the House also endorses his request. As such our next working day i.e. the 14th of August.

Hon'ble Sheikh Mohd. Abdullah: May I have a word Sir.

Hon'ble President : Yes please.

Hon'ble Sheikh Mohd. Abdullah: Sir, I have no objection. My idea was that since the constitution was being framed by this House so all the issues had to come before the Hon'ble Members and naturally they could have an opportunity to discuss all the issues. If the Hon'ble Members wish to have an opportunity in order to discuss my statement. I have no objection to that. As has been stated by a certain Hon'ble Member that since the statement carries much importance and that for reaching consequences and vital questions are involved in these agreements, so besides allowing time to the Hon'ble Members give due

consideration to my statement all relevant literature issued through press and other sources regarding debate that took place in both Houses of the Union Parliament should be made available to them. I have asked the Secretary to make this literature available to the Hon'ble members with a view that they may be able to give thorough consideration to my statement. The Hon'ble Members can also go through the reports of the debate which has taken place in the Indian Parliament as well as the relevant clauses of the Indian Constitution which they can consult in the Assembly library. I may submit that it will not be possible for me to supply copies of the Indian constitution to every individual member. It is for the Hon'ble Members themselves, upon whom the great responsibility lies, to go in for copies of Indian Constitution and keep them in their own libraries. This is an obligation on them from their constitution units. The Hon'ble Members should every now and then go through the Indian Constitution. This issue cannot be debated upon today. Next day is available to the Hon'ble Members to consider this issue. Janam Astami fall the day after tomorrow and there would be a public holiday. So if you fix Thursday for discussion on my statement then in that case the Hon'ble Members will get 2 or 2 ½ days time to consider all the issues involved and afterwards put forth their considered views before the House.

Hon'ble President: A part from the suggestion made by the Hon'ble leader of the House, the next working day according to the calendar also falls on Thursday. Naturally in addition to two clear days. The Hon'ble Members will have today half day at their disposal to consider all the issues and then the statement will be debated upon on the 14th of August. Now, I adjourn the house till 14th of August 1952.

NOTE: - The House adjourned till 14th August 1852.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY DEBATES

Fourth session

August 1952

Thursday, the 14th August, 1952/ 30th Sawan, 2009.

The Constituent Assembly met in the Constituent Assembly Chamber, Srinagar at eleven of the Clock.

Mr. President (Hon'ble G.M.Sadiq) in the Chair;

Hon'ble the President: Hon'ble Sheikh Mohd. Abdullah will move his resolution.

Hon'ble S.M. Abdullah: Sir, I beg to move:-

“that the statement made by me in this House on the 11th of August 1952 in regard to the agreement reached between the Government of India and the Kashmir Government be taken into Consideration”.

Mr. Harbans Singh Azad:- Sir, I second the motion.

Mr. Mubarak Shah: Sir, I will request you to please permit me to speak in English.

Hon'ble the President: In my opinion it will be better, if you speak in Urdu.

Mr. Mubarak Shah: Mr. President, it gives me great pleasure to see that our Constitutional relationship with India has been reaffirmed. Today, when we are framing our constitution, clarification has been made regarding many ambiguous points. This is to strengthen our constitution. Permit me to submit briefly why we acceded to India? The people of this land, majority of whom are Muslims did not fall a prey to the mechanizations of Pakistan. Let me enumerate the common principles, which have cemented our relations with the people of India. For the last eighteen years we have rendered sacrifices for the principles and the ideals that are common to both India and ourselves. We have accepted the life given principles of Mahatma Gandhi. But it is a tragedy of highest magnitude that a perfidious attack was launched against us, while we were trying to act on these principles. Now the question arises why did we acceded to India ? if the rulers of

Pakistan had not lunched their treacherous attack on us and tried to deprive us of our freedom. Even then, I may assure you, Sir, the people this State would have acceded to India while making this statement, I am not in the least becoming sentimental. Accession of the State to India was inevitable and foregone conclusion. In India we had the progressive forces, who were waging a heroic struggle against imperialism and its allies, and its allies and we were also fighting for the emancipation of ten crores of States population. These forces landed their unequivocal support to our freedom struggle . The leader of our freedom movement received tremendous support from the freedom loving people of India. There were some elements both Hindus and Muslims, who opposed us un our fight for freedom. Obviously these reactionary elements were not only undermining the unity of the Indian people but were also creating hurdles in the path of India's progress. It was therefore, historically necessary that we should join hands with those forces in India, which were fighting for the freedom of the country. As far as our international matters are concerned, I may submit that there are still forces in the world which want to deprive India of its freedom and want weaken its Defence. In 1947 the question of State's accession to either of the dominions assumed considerable importance. In fact it was a question of life and death for us. We had to take into consideration all the aspects the question before we could take a decision. We had to see where we would get opportunities to implement our programme of "new Kashmir". Besides the world is divided into two blocks and the frontiers of our country are contiguous to the five great powers of the world. We the people of this State want to remain aloof from the intrigues and conspiracies that are being hatched by the big powers. We do not want a new war. We, therefore, had to study the foreign policies of both India and Pakistan. We watched the course of events carefully and observed that the elements manning the government of Pakistan were in reality the stooges of imperialism who were out to perpetuate the exploitation of the masses. Under these circumstances, we decided to accede to India, because the Government of India had announced its foreign policy of non alignment with either of the blocks. Sir, I beg to submit that today we have not to face the questions of accession

because it stands confirmed long since. There should be no room for any ambiguity as regards this question. Today some people want to weaken the relations between India and Kashmir. Sir, I want to inform such people through this House that accession of Kashmir to India is complete in fact and in law. the statement which was submitted before the House by the leader of the House is not a legal document but an assertion of genuine statements. You can that relations we have established with India are based on ethical and human considerations. What are the reasons of our acceding to India. It was that the people of India accepted our right of self-determination long before 1947. we have a right to elect our own Constituent Assembly and frame our own Constitution. The Government of India has come to conclusion that in the interest of both India and Kashmir it is essential that Kashmir only hands over three subjects i.e. foreign relations communication and Defence to India and remains autonomous as far as other subjects are concerned. This has been provided in Section 370 of the Indian Constitution. Two days back the leader of the House made his statement. A passage of the statement reads:-

“while in the case of other units of the State the residuary powers belong to the union or the center. In the case of Jammu and Kashmir they been have assessed to belong to this unit”.

When I heard this speech, instantaneously the idea struck me that it is up to us to determine our future. Not only the Government of India but the people of India also have accepted our right of self-determination. It is therefore that my faith in India gets strengthened.

Note:- (At this stage the Member started speaking in English).

“Recognition of my residuary, Sovereignty Recognition of the right of the residuary powers this is the basis of my accession to India. The United Nations may or may not decide the Kashmir Issue. The Secretary Council U.No. or Dr. Graham may or may. Not decide the Kashmir issue but I have decided it forever on the basis which has been stated clearly in the statement. I have no indecisions. I have no doubts that the basis of my relationship with India are

based on these three factors, from which it follows that my autonomy has been guaranteed”.

Note:- At this stage the Hon’ble President asked the Hon’ble member to continue his speech in Urdu.

***Mr. Mubarak Shah:** Sir, it was enumeration of the factors which have become the basis of our accession to India. It gives me therefore pleasure when I see that directly or indirectly reference has been made to them. Now the question arises when our accession was complete in letter and spirit., then why question should crop up ? I am surprised to see that voices are being raised from various quarters undermine this relationship. It pains me to see that the so called champions of the integrity of India want to disturb this basis. Not only the people of this place but the people of India also held the view that there should be a voluntary Association based on mutual good will. Obviously there are two aspects of the question, namely the international and the domestic one. As far as the international aspect is concerned the boundaries of our State are contiguous to five great powers of the world. If the peace of the world gets disturbed, we will have not only to defend ourselves but also the world peace because of our geographical position. Thus if we fail to discharge our responsibilities then there is not only danger to world peace but there is an apprehension of our getting whipped out. The people of this border State are one and all behind their leader, who have been teaching them the ideas of secular democracy for the last eighteen years. Ours is a full fledged secular democracy. We fought against the dark forces of communalism. Those who want to undermine our relations with India are doing great disservice to the cause of Indian freedom. It pains me to see that there are some people who look our leadership with distrust and suspicion. After all what are these constitutional assurances ? they have no meaning unless there is genuine understanding among the various people. Pt. Nehru in one of his recent speeches in the Parliament said, “we are striving for the union of the hearts of the people,” and that is the basis of our relationship with India” we are striving to establish Unity of hearts. The basis of this bond is expressed in the residuary sovereignty of our Constituent Assembly. Those who

want partition of the State are worst enemies of the State. They undermining the Unity of India and strengthening the hands of Pakistan. They are paving the way for subjugation of Asia by Anglo-American block. I will ask these people not to look at the problem through Hindu or Muslim point of view. We believe in class struggle and not in communalism.

Hon'ble M.A.Beg: Mr. President, I want to know whether a general discussion is proceeding on the motion of the leader of the House or an amendment is being discussed.

Hon'ble the President: The amendments have been received late. When today's business was taken up, these were not received by me. I will put the amendments before the House after this speech and we will have a discussion at one and the same time .

***Mr.Mubarak Shah:** I will ask these people not to undermine the unity of India. I love India in the same way as any other Indian patriot loves it. Our strength lies in the strength of India. If some self-styled friends of India want to undermine our relations with India how am I to be blamed for it. And the unkindest cut of all is that we are expected to have good will for such people. Mr. Khare and Mr. Mukerjee expect me endorse their stand. After all India is not one State but a Union of States. This federation can be only strengthened if we all consider ourselves as Indians and think that our strength lie in the strength of India. As far as the Headship of the State, the National flag, powers of the President and Conduct of Election to the House of the People are concerned these have been decided on particular basis. I would like to submit that the leader of the House and the Prime Minister of India have both accepted the basis and keeping in view the basis have arrived at the decisions. However the House is entitled to examine the decisions. But while examining the decisions we should take into consideration all these points. It has reported in the newspapers that Article 370 of the India Constitution is being superseded by Article 238. I think this will not happen. If it is done it will not be correct thing. If my Hon'ble friends have studied the Article 370 they would have noticed that the Article is of a transitory nature. When it is deleted it will be substituted by our Constitution. Nay it will be

substituted by these provisions, which you will sanction to strengthen the bonds between India and Kashmir. I pity these people who say that we have ignored the accession of the State. It is nothing but their shortsightedness. At the end I will request the Hon'ble members of the House that they should not ignore the fact where as they fought against one of their neighbors for the sole reason that our political and economic Programme differed from them. Similarly if we are denied our rights. We will wage a constitutional struggle for our rights. After all what is life? A constant struggle. I will draw your attention to one more fact. It has been said that constitutional relations are not static but are dynamic. All constitutions are by themselves flexible. I will submit that a constitution is not social or political programme. It is therefore that seemingly a Constitution is static one but in course of time it assumes a dynamic form. We should not infer from it that if such is the case we might loose our autonomy. But it is not so.

To those of this House who want this relation to be strengthened, I would earnestly appeal that should make this relation with Indian union stronger so that the union may be assured of our sincerity. We should however look to their position as we look to our own autonomy (Cheers). In our own sphere we are autonomous and we have every right to remain autonomous (Cheers).

Hon'ble the President:- I have received some amendments pertaining to this motion. I will request the Hon'ble member to move their amendments.

Mr. abdul Gani Goni : - Sir, I beg to move the following amendments:-

That the words during the pleasure of the President appearing in clause II. Under Headship of the State, in the statement be deleted and be substituted by the words" as long as he commands the confidence of the Legislature of the State".

Hon'ble the President: - The amendment has been moved. " That the words during the pleasure of the president appearing in clause II, under " Headship of the State" in the statement be deleted and be substituted by the words" as long as he commands the confidence of the Legislature of the State".

Hon'ble the President: Sardar Kulbir singh will now move his amendment.

Sardar Kulbir Singh: Sir I have no copy of amendment.

Note:- The Secretary supplied him with the copy of the amendment.

Sardar Kulbir Singh: Sir, I move:-

“At the end of the motion the following be added; and having considered the same this House approves all the steps taken so far in the matter as indicated in the statement. And further places on record its deep appreciation of the spirit in which the matters were discussed and agreed conclusions arrived at”.

Hon’ble President: I will request the Hon’ble members that whenever they have to move an amendment to a motion they must keep its copy with them.

They amendment moved is :-

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

“ and having considered the same this House approves all the steps taken so far in the matter as indicated in the statement.

“ and further places on record its deep appreciation of the spirit in which the matters were discussed and agreed conclusions arrived at”.

Now Mr. Ghulam Rasul will move the next amendment which stands in his name.

Mr. Ghulam Rasul:- Sir, I beg to move:-

“that in Para “emergency powers” the words at the end of the first Para. “But in regard to internal disturbances at the request or with the concurrence of the Government of the State” be substituted by the words,

“But section 352 of the constitution of India may apply at the request or with the concurrence of the Jammu and Kashmir State.”

Hon’ble the President:- An amendment has been moved:-

“that in Para “Emergency Powers” the words at the end of the first Para “but in regard to internal disturbances at the request or with the concurrence of the Government of the state” be substituted by the words, “But section 352 of the constitution of India may apply at the request or with the

Concurrence of the Jammu and Kashmir State”.

Hon’ble the President:- Mr. Assadullah Mir.

Mr. Assadullah Mir:- Sir, I beg to move the following amendment:-

That at the end of the motion the following words should be added:-

“and having considered the same the House approves the statement and resolves that the fundamental rights of the citizens of Jammu and Kashmir should be framed by Constituent Assembly of the State and embodied in the Jammu And Kashmir Constitution”.

Hon’ble the President: The amendment moved by Mr. Assadullah Mir is:-

That at the end of the motion the following words should be added:-

“and having considered the same the House approves the statement and resolves that the fundamental rights of the citizens of Jammu and Kashmir should be framed by Constituent Assembly of the State and embodied in the Jammu And Kashmir Constitution”.

Hon’ble President: decaying order. As I have already stated, these people are the stooges of the imperialists.

There are some who cannot make out as to what has caused Mr. Shayma Prashad Mukerji, who used to praise us to change since last few days. But eh reason for it is that, when he came out of the Central Cabinet, the programme of Kashmir had appealed strongly to the Indian masses and he could not raise his voice against Kashmir as it would have led to his own exposure. Afterwards he started campaign of propaganda against Kashmir leadership and employed various means to be able to poke his nose in Kashmir problem. With the intention of dealing a death blow to nationalism he came of Jullundar and advised the communal elements in India to charge Kashmir leadership with all sorts of baseless charges. But afterwards he changed his tactics and formed an alliance with those very people who were notorious communalists throughout their life and has opposed Indian Constitution and Indian flag. With the support of these people he wants to undertake a crusade against us. It was Shyama Prashad

Mukerji who after joining the congress Organization tried to persuade here see the division of India as an established fact. He came in the Indian Cabinet when the country had been partitioned. But, later on, he resigned from the Cabinet when disturbances took place in West Bengal. He tried his best to made nationalism a spent force and gave an impetus to communalism in India. He tried to increase his own importance at the cost of his country. Indian masses never recognized his claim to their leadership. I consider it necessary to say a few words regarding his p[resent policy. He comes to our State, for the first time, when the people are living peacefully. He never came before nor did he ever extend a helping hand to the people of this country in their distress. I would like to ask him where was he at the time when raids took place and the people here were in grave troubles. Many friends tried to help us in every possible manner and, those who could not against us materially, expressed t heir sympathies. But he did not utter even a single sympathetic syllable at that time.

***Mr. Moti Ram Baigra:** Did you ever invite him to come here?

Hon'ble Pandit Girdhari Lal Dogra: We have never invited anybody, to come here. You might posses some sympathy for him for his being a member of the Indian Parliament. As Supplies Minister in the Central Cabinet he never came here nor did he express any **sympathy** when the country was invaded by Pakistan and Pakistainis abducted the women and dishonored them. But today he says that the Indian Constitution must be applied in full to this State. It simply means that the land reforms, which we have introduced in our country, would be cancelled by the application of the Indian Constitution and the steps taken by us Regarding conciliation of debts would also be nullified and, these, would served as an obstacle in our path of progress. He claims that the people of Jammu are at the back of this demand. Any sensible person believe that lack of poor peasants who secured the ownership of the land through the enforcement of Big landed Estates Abolition Act or people relieved of huge burdens of debt by the present Government would, like that these concessions should be withdrawn and their future prosperity should be checked.

Second objection raised by him is that why do we celebrate the Martyrs' Day? I would like to ask if he wants us to celebrate a day in the remembrance of those acts which have put the s\whole humanity to shame. You cannot make any distinction among the martyrs' on the basis of religion. We celebrate the Martyrs' Day in memory of those who raised their voice against eh autocracy in this State and made the backward masses politically conscious. I would refer to him the speech of our Leader which he delivered at Udhampur wherein he paid tribute to these martyrs'. Regarding the question as to why the Kashmir issue was taken before the Security Council, I would say that he too must share the blame because he also was on one of the members of the Central Cabinet.

***Mr. Ram Piara Saraf:** Point of Information, Sir, are we to understand that the Treasury Benches are subject to the same limitations of time like other Hon'ble Members? If it is so why the time limit applicable to others is not followed in their case.

***Hon'ble President:** Fifteen minutes time limit is fixed for every Hon'ble Member, in general. But as longer time has been given to the Hon'ble Members who spoke against the statement, so I have not imposed the restrictions of time in case of those members who are speaking in favour of the statement. I, therefore, did not stop the Hon'ble Member from speaking at length.

***Hon'ble Girdhari Lal Dogra:** Sir, I speak all this on behalf of those people whom I have the honour to represent in this House. It is being said that, in case the Kashmir issue is withdrawn from the Security Council Kashmir might be invaded and war may start. But he is just as much responsible for this as is Pandit ji. Taking the case of Land Reforms he said that expropriated landlords of Jammu should be allowed to retain more than the limit fixed after the abolition of landlordism in the State. All this clearly indicates that the interests himself in Jammu people only. Now I come to the agreement properly I simply fail to understand the intentions of those Indians who are opposing it. However, we need not feel bewildered by their opposition. The first point in the agreement is in respect of the residuary sovereignty. The Government of India agreed to all that

was said by Hon'ble Leader of the House and the delegation. We told them that the State is sovereign in all matters excepting those three subjects which have been entrusted to the centre, i.e. we are perfectly independent in other respects. To make it absolutely clear, it is necessary to understand our position at present We have acceded to India. It is not that type of accession which is being conceived by Dr. Shyama Parshad Mukerji. But that which we have declared again and again. However, we are a part of India but we can choose our own way while remaining within India. Neither do we want to put any hindrances in the way of any class or party India nor do we want India or any class or party in India, to interfere in our own affairs. This agreement was framed in the light of this position. So far as citizenship rights are concerned, the statement of the Leader of the House is quite clear, and the House also seems to have grasped it as i.e.\s evidenced by the absence of any amendment in this behalf or any speech against it. But it was necessary to take certain measures for safeguarding the rights of those country-men who had to leave the country due to the adverse circumstances. But in spite of all this, some mischievous elements in Jammu are again trying to present it in a wrong way.. The people living near the border line are being infected with the spirit of discontent and communalists are exploiting these people by telling them they would be turned out.

Regarding Fundamental Rights the agreement clearly states that this House would deliberate upon it, and the clauses of Indian Constitution in this respect would be carefully discussed to decide about the nature of these rights. We have to see whether these are to be admitted, amended or modified in any way. An amendment has been put forward in this connection and has been discussed also. I do not say anything in reply to it, but I would like to indicate that in this agreement we have promised to only. It is being said that Shri Gopala Swami Ayanger declared that such provisions could be applied indirectly also. I do not think it possible that he could make such a statement. But even if he has said so, it is immaterial because the legal position cannot be altered I this manner. I would only submit that this agreement and the talks preceding it have created stir in the reactionary ranks. The reactionaries are capitalists and are

educated, and are trying their best to disrupt our union but, having acceded to India, it is our duty to defeat the reactionary elements at every step. We either can take Indian masses towards progress or mar their future prospects. It is only a few years back when Bapu ji said that he found in Kashmir a ray of light. This ray of light can spread to the rest of the world. Hence we should realize our duty because any wrong step at this stage might endanger the peace of the whole world. We have to take forward the country with determination and we should not be worried by minor obstacles. We have still to solve various problems with the centre and have to take decisions in connection with different aspects of the matters of common interest. It is just possible that in such dealings, some bitterness may crop up. We have to take our country forward and do our duty in such a manner as to end all opposition.

***Hon'ble Sheikh Mohd. Abdullah:** Sir, the statement which I placed before the House on 11th August has been under discussion for two days. I have tried to follow the argument of all those speakers who have expressed their views in this connection. Some of the Hon'ble Members have suggested certain amendments. Mr. Abdul Gani Goni has put forward this amendment:-

“That the word's “During the pleasure of the President’ appearing in clause (ii) under “Headship of the State’ in the statement be deleted and be substituted by the words “as long as he commands the confidence of the Legislature of the State.”

In this connection, perhaps the Hon'ble Member apprehends that the expression “ during the pleasure of the President” means that when we have elected the Head of the State, the President has powers to extend his term of office, or to remove him from the office, when he is no more considered to be worthy of the confidence. As far as this expression goes, I would like to inform the Hon'ble Member that when the Head of the State is to be elected and as has been clearly admitted by the Government of India, when the Legislature is the only authorized body to elect him, it is quite clear that he can also be removed by the body electing him.

Regarding the Headship of the State:-

“The Head of the State shall be the person recognized by the president of the Union on the recommendation of the Legislature of the State.”

How is the Legislature to recommend him for recognition as Head of the State? It is clear that a panel of names would be presented and a vote will be taken, and the successful candidate would be recommended. It is a kind of constitutional propriety that the party choosing its head can remove him from the office if he violates the constitution, or if he proves himself to be unworthy of that honour. Being a part of India, it is essential for us, like the people of other States, to honour and respect the President in a manner befitting his dignity and office. Coming again to the phrase “during the pleasure of the President, it is applicable with regard to the formation of Cabinets. Elections are held, various persons fight them and try to be elected, and then, the President asks the leader of the majority party to form the cabinet. He cannot ask any other party to do so. So far as Council of Minister is concerned, the Indian Constitution lays down:-

“75. (i) The Prime Minister shall be appointed by the President and the other Minister shall be appointed by the president on the advice of the Prime Minister. (ii) The Minister shall hold office during the pleasure of the President.”

As you see this the constitutional language. These apprehensions which are being expressed in this House, were placed before the Government of India and were thoroughly discussed. I am narrating all this in order to give you an insight into the matters discussed there. As I have submitted earlier, these are the intricacies of the constitutional language. When the President is authorized to appoint Minister of the Cabinet, he can appoint anybody to or remove somebody from that office. But in actual practice, he adopts the procedure related earlier by me i.e., he calls upon the leader of the majority party to form the Government. He does not ignore the majority party and ask the minority party to form the Cabinet. The President has also to act according to certain procedure. Therefore, as far as this issue is concerned, we have entered into an agreement on the line that:

“That the Head of the State shall be the person recognized by the President of the Union on the recommendation of the Legislature of the State”.

How is the Legislature to recommend? What rules are to be framed in this Connection? All this is to be examined by the Legislature. Our relations with India are quite natural, and the President of India are quite is our President as well. The nomination papers would be sent to him formally. But the question arise, what is the procedure when the President does not grant his sanction to our recommendation, or when the President advises use to reconsider the same. In that case, if the Legislature stands firmly by its first decision and the President is still unwilling to grant his sanction, a part of the Federation would break loose and drift away. But, as long as it is intended to keep the Federation intact, such a contingency would not be allowed to arise. I hope that Mr. Abdul Gani Goni would withdraw his amendment in view of my above submissions.

Another important point raised by him is to what would be the implications of Sub-clause 4 of Clause 61, Clause 39 and Clause 96, dealing with the removal of President and the Speaker. So far as the “no-confidence” motion against the Speaker is concerned, it is contained in the Clause 21 of our rules. Regarding the rest of the matters, we can remove the Head of the State, elected by us, in case he enters into any conspiracy with the enemy or if he does not act according to our wishes. But the point is that we have not reached that stage as yet. We are, at present, framing the Constitution and we will keep appropriate provisions I it and see, that the Constitution is not devoid of these. We are moving forward gradually and cannot decide at once about all these matters. Some friends have raised the issue that the Kashmir Constituent Assembly is framing the Constitution by parts. But, Sir, there are specific reasons for doing so. Hon’ble Members are quite aware of the conditions through which we are passing, and these circumstances compel us to frame the Constitution by parts. We are taking up all the important issues one by one to avoid any hindrance in the path of our progress. Hon’ble Mr.Goni has drawn our attention to the procedure to be

followed in case of non –availability of the Head of State of our choice. I would like to say that the point is to be decided by the Constituent Assembly, after approving the agreement. We have taken up the task of framing the Constitution. Head of the State would be elected by us under the provisions of the Constitution. We shall make provision in the constitution for the removal of the Head of the State by the representatives of the State, if he proves himself incompetent to retain the office, or if he goes against the provisions of the Constitution or, if he enters into a conspiracy with our enemies. I would therefore express a hope that Hon'ble Mr. Goni would not press his amendment.

The second amendment, which comes from Mr. Ghulam Rasool says:-

“That in para ‘Emergency Powers’ the words at the end of theist para. “But in regard to internal disturbance at the request or with the concurrence of the Government of the State” be substituted by the Words. “But Section 352 of the Constitution of India may apply at the request or with the concurrence of the Jammu and Kashmir State.”

This amendment has been dealt with at length by my colleague, Hon'ble Mr. Dogra. So far as we are concerned, we have acceded to the Union in full regarding Defence which is now the responsibility of the Centre. Regarding Section 352, we have declared that the President of the Union can apply this section only in the following two cases, i.e. danger of war or external aggression. But he cannot apply it in case of internal disturbances. Much has been said in this point and Mr. Ayyanger, while replying to the critics in the Council of the State, said:-

“There was nothing to prevent Parliament from making a law under item No.1 of the Union List which covered an aspect of defence and enabled the Centre to take a some what similar action when the peace or security of India was threatened by some disturbance inside the State.”

The critics there had to be satisfied. An agreement has been reached between the representatives of the State and the Indian Union. We told them that Kashmir has acceded to India in the matter of Defence and that they can take

necessary steps concerning this under Schedule 7 item 1, and that there was no need of the application of section 352. In case of some specific happenings the President can assume the powers for sometime and use them, but he has to get the sanction of the Parliament within two months of doing so. I would like to inform the Hon'ble Members that our discussions took place in a friendly atmosphere. As hon'ble member knew, discussions between two parties can take place in two ways only, firstly when the parties try to find excuse to avoid a settlement, and secondly when both the parties earnestly wish to come closer to each other. We, as well as our learned friends from India, wished to strengthen and smoothen our relations. They never wished that Kashmir should drift away from India and we never wished to sever our relations with India. Both the parties wished that the ties binding us should become stronger and lasting. When this be the spirit, some agreement on give and take basis is bound to be arrived at. Then there remains no need of stressing one's point of view. The basic point then is to come to an agreement. It is possible that we would not take the proper precautionary measures in case of a threat of war to India? Similarly India would help us in case of an invasion on Kashmir. We cannot say, at that time, that we will think about it, make legislations etc. etc. because it would be a lengthy procedure whereas, during a war every part of the country must be alert. There is no difference in that case among the different parts of the federation whether it be Bengal, the Punjab or Madras. At such critical times it is never thought as to how can one part of the country be saved if another is invaded, or how to save Kashmir if an attack on Madras has been made. Considering all these matters and in view of the fact the defence is in the hands of the Centre, we did not raise any objection as regards the application of Section 352. We limited its scope to the case of external aggression and threat of war and thus did not allow it to extend to the internal disturbances.

So far as internal disturbances are concerned we stated clearly that without our request or concurrence, this clause cannot be applied to us, on the other hand, that they never meant that the President should take over the powers in case a disturbance of minor nature, what we really meant was that the

President can apply the Emergency powers in case of a disturbance which tends to threaten the security and peace of the rest of the country. WE submitted that we were not ignorant of all this and knew that the President would not exercise Emergency Powers in the case of a fight between two persons. But eh point was that our agreeing to this clause would have given an excuse for creating disturbances to certain nefarious elements which include not only some friends form Jammu, but also Hindu, Muslim and Sikh friends from other parts of the State. If we once give way these people would get an encouragement and would become a permanent source of menace to us, and so we expressed or unwillingness to agree to it. The Union President, therefore, cannot use Emergency Powers without the concurrence of the State Government. But, in the maters of External Aggression, we will be treated like the rest of India. I hope that the mover of the amendment, Mr. Ghulam Rasool, will withdraw the same in the light of the above observation. The fourth amendment stands in the name of Mr. Mir and reads:-

“That at the end of the motion the following words should be added:-

“And having considered the same the House approves the Statement and resolves that the Fundamental Rights of the citizens of Jammu and Kashmir should be framed by the Constituent Assembly of the State and embodied in the Jammu and Kashmir Constitution”.

In this connection I would like to inform my Hon'ble friend that so far as Fundamental Rights are concerned, a committee has been formed in the constituent Assembly. This committee would present its report shortly and would recommend therein the Fundamental Rights to be enjoyed by the people of the State. Basically our Indian friends would like to have the Indian Constitution applied to our State in full, but we, on the other hand, are of the opinion that the fundamental principles under which Kashmir has acceded to India should not be interfered with while the efforts are being made to strength this relationship. We were asked about the nature of fundamental rights in the State when there is no freedom of speech and the jails are packed with the political prisoners

Propagandists might say whatever they like, but the reality is that in spite of the fact that the country is in a state of war very few people are behind the prison bars. So much that our Hon'ble Deputy Prime Minister who is incharge of the portfolio of Home Affairs informs us that there is only one political prisoner at present. In spite of all this, it is being alleged that the Government here is being run by the use of force and that this is a Fascist Government. But when the State has been passing through warlike conditions for the last five years and the enemy has been sparing no pains to create internal disturbance, is it not creditable that there should be only one political prisoner behind the bars? This clearly shows that despite the fact that there are no specific Fundamental Rights, our people are enjoying more rights than the people of Pakistan or India. After all, what is meant by the Fundamental Rights? Take the case of England. Although the Constitutional reforms have been taking place there for quite a long time, there is no mention of the word 'Fundamental Rights' and neither is there any specific definition of the term, and, yet the people there are enjoying the maximum rights. While those countries which lay great stress on this point and publish volumes on the Fundamental Rights, strangle the civic liberties at the least provocation. So we clearly indicated that we were not in agreement on this point and, further told them that, when the Constitution is framed, we will assign certain fundamental duties to the citizens while granting them the rights. i.e. when get certain rights from the state it is clear that the citizens have got certain obligations towards the State they have to fulfill certain duties towards her. But this is the work of the committee formed by the constituent Assembly and the committee is bound to pay due regard to all these matters. But one thing must be kept in view, namely, that the fundamental rights of the State should not clash with the Fundamental Rights granted under the Indian Constitution by the Indian government to the people of India. This question was also discussed and we assured them that we will try and see, that they are not contradictory. But we also told them that it was not necessary that we should frame the same Fundamental Rights which have been framed by them because there is a large difference between our respective Social Orders. Our Social order has got certain peculiar

characteristics which can be retained only if we remain with India. There is no chance for the development of our social order, if we join Pakistan where feudal order obtains to the present day. Regarding Fundamental rights we had said:-

“That the Fundamental Rights which are contained in the Constitution of India could not be conferred on the People of Jammu and Kashmir State in their entirety taking into account the economic, social and political character of our movement as enunciated in the New Kashmir Plan. The need for providing suitable modifications, amendments and exceptions as the case may be in the Fundamental Rights Chapter of the Indian Constitution in order to harmonize those provisions with the pattern of our Principles was admitted”.

It has also given rise to certain doubts and it is being said that the word ‘confer’ indicates that the citizenship rights would be bestowed on us by the Centre. But I would like to make it clear that these are our basic rights and that there is no question of our receiving them from the Centre. It is unfortunate that I have not studied law and am not very much conversant with the legal terms. Legal terminology however, was not the predominant factor in our talks and we were repeatedly assured that there was no legal snag in our discussions. They wanted only to understand our broad intentions, on which we are going to base our constitution. The word ‘confer’ should not cause much worry to my Hon’ble friend. It is impossible that we would get our rights from the Centre. Had it been so, it would have been useless to form Constituent Assembly and spend so much money. I affirm that the intentions were not as interpreted by my Hon’ble friend. It is, however, essential for the Fundamental Rights committee to keep an eye on the Fundamental Rights in India and the other countries of the world, and then submit its recommendations to the House regarding the definition of Fundamental Rights and the duties of the people. It would also recommend whether the Fundamental Rights so framed are to be considered as a part of the constitution of the State or of the Indian Union. The Fundamental Rights Committee has only to submit its considered opinion before the House and it would be for the House to take the final decision. Another issue, to which we have agreed is that of the Supreme Court.

“It was agreed that the Supreme Court should have original jurisdiction in respect of disputes mentioned in Article 131 of the Constitution of India. It was further agreed that the Supreme court should have jurisdiction in regard to Fundamental Rights which are agreed to by the State.”

As I have already stated, the Assembly has to decide whether the Chapter on the /fundamental Rights should form a part of Indian or the State Constitution. If it forms a part of the former then certain amendments will have to be made therein. We have got no objection to the Supreme Court's interpreting these rights but first we must frame these Fundamental Rights. The Fundamental Rights committee has to make it s recommendations after careful and thorough deliberations, as we have not taken any decision about it and as the issue is undecided as yet, I hope, that Mr. Assadullah Mir will not press his amendment.

Another amendments is that of S. Kulbir Singh. I accept it. This amendment has been supported by S. Harbans Singh Azad, Mr. Mubarak Shah, Mr. Chuni Lal and S. Kulbir Singh and it reads as follows:-

At the end of the motion the following be added:-

“And having considered the same this House approves all the steps taken so far in the matter as indicated in the statement”.

“And further places on record its deep appreciation of the spirit in which the mattes were discussed and agreed conclusions arrived at”.

I have submitted my views regarding the statement and the amendments prosoed thereto. The second part of my speech, I would deal with the remarks made by the Hon'ble Members while expressing their views on this statement. S. Kulbir Singh drew our attention (if I remember rightly) in his speech to the Yuvraj's statement of 13th August, 1952. I do not wish to say anything about his statement which related to an interview. It was his lookout to give a statement to the press and he could understand fully its implications. I would, however, like to inform the House that we are not bound so far as constitution goes to select some particular person for the Headship of the State. But we are always of the opinion that we are fighting against principle and not against any particular

person or class. I suggested tot eh House, on the basis of my own personal experience, to bestow this honour on Yuvraj. But, in case the House does not consider him to be the right man for this honour it is unnecessary to act upon my suggestion. I would like to point out to a friend of mine who said that it is likely that we may remove the Yuvraj afterwards if we appoint him our Head for 5 years only that we cannot mould the public opinion, if basically, Yuvraj is so fortunate as to win the favour of the Legislature and the people of all castes and creeds by dealing justly with everybody the masses would naturally adore him. Yuvraj Karan Singh's future is in his own hands and we cannot make any prediction about the principles which he is going to follow in future. But naturally he cannot win the confidence of the people, if he patronizes only a section of people, ignoring all others Sheikh Abdullah possesses only one vote and so does every man in the street. Might is right, represents a principle of the by-gone days, but now the conditions have changed, the Governments are formed and run on the basis of votes. The government used to be run by force but now the times are not the same. It is possible for the Yuvraj to come to power again only if he breaks up with the reactionary elements and he can be popular with the masses only. If he understands clearly that his happiness and sorrow are linked up with the happiness and sorrow of the common man. But, if he is under the delusion that he can retain his office with the help of his few supporters. He is mistaken. He can well understand the effect of the statement issued by him. Bu the can allow himself to be misguided at this stage nor at the cost of is future. It is, however, not our function to worry about it, and all that I have submitted was said in a friendly spirit only.

Mr. Ram Piara Saraf remarked in his speech as to how was it that the Maharaja's Flag a symbol of autocratic rule, is still being hoisted in Jammu while the people's Flag is flying in Kashmir. He said it give rise to certain misunderstandings. I submit that although we fought against the autocratic rule and suffered many hardships, we never insulted the flag. As is know to House, efforts were made to crush down our movement by using baseless and shameful tactics but we never insulted the flag of the country because we did not like to

stop to such mean and baseless methods. The flag adopted by the Assembly would be for the whole of the State, but the decision regarding the Constitutional Head of the State is yet to be taken and till then the autocracy cannot be taken as abolished constitutionally. This interim report of the Basic Principles Committee would be coming in an official form before the House in a day or two and we will elect the head of the State under its provisions. This move will establish a new order by putting an end to the old one. We do not lay much stress on minor matters as they cannot harm us in any way. We are following the constitutional path and want this new flag to be hoisted in places, where previously, the National Conference Flag was flown. It is our earnest desire that there should be only one flag for the whole of the State. Our attention was drawn to another issue referred to by Mr. Baigra also about the people who move about on either sides of the ceasefire line. I would request the Hon'ble Member to deal very carefully with these controversial matters. We should not align ourselves with politics. We have to solve the problem of our own State, an issue which has become very complicated at present. It is the U.N. observers who cross the ceasefire line. Their duty, primarily, is to keep watch over the ceasefire line, and to settle any disputes connected therewith. It is altogether a different matter whether their decisions are based on justice and fair play or not. Besides, the present day world is divided into two major groups, and we have to move very cautiously to avoid getting ourselves involved, lest we should be crushed. Nothing in our speeches should give any indication of partisanship. We want to live honourably. After all what power do we wield to interfere in world politics? We are already surrounded by so many dangers and should avoid further addition to our worries. We must tell the rest of the world that we need their help. It is the basic policy of our Prime Minister to save the country from being a party in any war, because innumerable calamities would befall us if we get entangled in one. Hence we must try to create friendly relations with all other countries and try to save the world peace which is in the interests of our own country as well. Since our principle is the same as that of the Prime Minister of India it is essential that we do not give expression to any idea which may lead to confusion. I assure you,

as Prime Minister, that I would not allow the Jammu and Kashmir State to align itself with either of the power blocks of the world and would follow the policy laid down by the Prime Minister of India. Come of our friends, instead of removing the old ones want to create more difficulties for us and thus hinder progress. In this speech Hon'ble Mr. Beg has remarked that Kashmir has acquired a special position.

Note: The Clock struck 4.30 p.m. and the Hon'ble President asked for winding up the debate.

***Hon'ble Sheikh Mohd. Abdulah:** Sir, if I do not get time to conclude my speech today, I would have to continue it tomorrow.

***Hon'ble Deputy Prime Minister:** Sir, I suggest that the House should sit upto 5 P.M.

*Hon'ble President: If the House has no objection, the sitting will be continued till 5 P.M.

Note:- (The House agreed to extend the time till 5 P.M.)

***Hon'ble Sheikh Mohd. Abudllah:-** Sir, I was saying that the opinion expressed by Mr. Beg that the State has a special position is not correct. In this connection I would cite the para quoted by Mr. Beg. And prove that Kashmir does not occupy any special position.

The question of the accession of the States arose on the partition of India. Mr. V. P. Menon, the then Secretary to the States Ministry was the moving spirit in all matters relating to the Indian States. When Sardar Patel took over the State Ministry after the departure of Lord Mountbatten then also Mr. Menon was running the whole Department. Mr. Beg has also referred to one of his articles published in the Hindustan Times dated 15th August, 1952 which runs as follows:-

"The need of the hour was consolidation on however provisional or limited basis. With this firm end in view, the Government of India invited all the princes to accede on three subjects, namely, defence, external affairs and communications subject to assurance that in all other matters the rules would retain the status

quo. Assurance was also extended that the accession did not imply any financial liability on the part of the States and that there was no intention of encroaching on the internal autonomy of the State or of fettering in their discretion in accepting the new Constitution”.

This was said not by an ordinary person but, by the very man who was the architect of this structure. I would quote from the instrument of accession i.e. the agreement which took place between Indian and Kashmir. I do not want to read out the whole of it but would only submit the following:-

“I hereby accede to the Dominion of India subject to the purposes of the Dominion Constitution and shall be always subject to the terms thereof”.

That is I accede and do not want to go beyond that. And then again:-

“I accept the matter specified in the schedule hereto..... and such other matter to which the Dominion Legislature may make laws for the State”.

The schedule is clear about everything and we are not responsible for the subsequent items and we are within our rights to refuse or to accept them. Now Under this Schedule if any new item besides those contained in the instrument of accession crops up we can make a mutual agreement. For such contingency it is provided:-

“Then any such agreement shall be deemed to form part of this instrument and shall be constituted to have effect accordingly”.

The terms of this instrument of ours shall not be varied by any amendment of the Act or of the Independence Act of 1947 unless such amendment is accepted by an instrument supplemented to this Instrument.

Since now we constitute the Government here, hence nothing can apply to us against our wishes or concurrence.

“Nothing in this instrument shall be deemed to commit this House in any way in acceptance of any future constitution or form a party in any discussion with the Government of India under any such future constitution”.

Now this the basis of our relationship with the Government of India. Afterwards, when the constitution of India was framed all the princes signed it.

Sardar Patel convinced the Rulers that the Indian Constitution was their own constitution, and persuaded them to agree to its application in their State. Some of the princes agreed to it and no untoward incident took place in any State whether it was Baroda, Hyderabad or Mysore. But we have nothing to do with them. They accepted the application of the Indian Constitution and that is all that can be said about it. But when we were asked about it, we told them that we could not agree to it in view of the special circumstances prevailing in Kashmir. The question was what position should Kashmir have in the Indian Constitution. It was evident that of all the States in India and Pakistan, the State of Kashmir was the only State which though having a Muslim majority preferred to join India and did not fall prey to communal frenzy. We also felt that Kashmir would not make such progress if it accedes to Pakistan by whom it would always be subjected to undue pressure.

As against this, we can make progress if we remain with India and thus the aspirations of the people of this State would be fulfilled. That is why we have acceded three subjects only and kept the rest in our own hands. This issue was also discussed and it was agreed that Kashmir should not be forced against her wishes. The position, that with the exception of three subjects mentioned above we were independent in all matters, has been conceded in section 370 and others of the Indian Constitution and our autonomy has been preserved. Now when the Constituent Assembly has successfully arranged these matters with the Government of India, some friends are raising objections as to why Kashmir has been given a 'privileged position' but I fail to understand why these people who framed the Constitution, are creating fuss now, it is however, entirely a different matter if the people of India want to have it changed, but I would like to ask Dr. S.P. Mukerjee (although I have a great respect for him) why did he not think of these matters at the time when he was one of the members of Government of India at the time of framing of Constitution. After all, one should have some trust. We have given assurance to the public of this country that it is only India which is free from the course of feudalism, secular in its outlook and where our dreams and aspirations can be realized. It is true that we have a great love for our

religion but the States are not based on religions but on economic considerations. Therefore, we declared that our interests would be safe with India. But, if they want to cut at the very root of this assurance how can you keep Kashmir with India. It is true that nothing is static in this world and that everything is dynamic. Circumstances now are not the same as they were in 1947, and they would be different tomorrow. So the representatives of this country or the Legislature may handover some other matters to the Centre but it certainly cannot be effected by compulsion. Discussion took place in the light of all these considerations and they expressed their inclination to appreciate broad principles. Neither myself, nor the members of the delegation, had any authority to frame the constitution. This authority rests with the House. They, however, wanted to understand our outlook with reference to our position. I have put forwards this point of view in my statement and Mr. Beg has also shed sufficient light on it. All the residuary powers, excepting in three subjects, are in our hands; in fact, it is upto us whether we entrust, these matters to the Centre or not. Under the provisions of International Agreement we can sever our relations with India even today if we wish to do so. This right is given to our State and not others. All this rests with India and we can say that we do not want to remain with India. It is upto us and we can declare that we want to go out of the Indian Union. There are provisions dealing with this aspect. The Hon'ble Members are aware that the Prime Minister of India has repeatedly said that although it would be painful to him if Kashmir does not want to remain with India, but it depends on the will of the people of this country. Those who are still trying to create this confusion seem to forget the basic principles under which we have acceded to India.

The views of the "Government of India regarding Citizenship and Fundamental Rights are before you. We placed our difficulties before them and submitted that the rights, reserved for us in 1947, should not be interfered with. After all the States would certainly develop and the House might then consider it advisable to change the rights reserved for us in 1947. Nothing is static. We, however, admitted that the State Subject Clause is rigid that it should be relaxed. But we have not committed ourselves and it is all upto you. The statement can be

divided into two parts- one part dealing with the definite agreements arrived at, and the other with matters regarding which we have asked for time. But the House should not object to it, and it should deliberate over the matters on which agreements have been reached. For example we have agreed on 'Supreme Court' issue in the following terms:-

"It was agreed that the Supreme Court should have original jurisdiction in respect of disputes mentioned in article 131 of the Constitution of India".

Article 131 deals with the authority competent to decide the dispute between two States or between the States and the Centre. Obviously, the High Courts, and the Courts, cannot adjudicate on these matters, and it is only the Supreme Court which is competent to decide them. As there is no amendment about it, the House appears to be in agreement about his item. It was further said that there is no necessity of the Judicial Board in our State, and it was proposed that the Supreme Court should be given the jurisdiction in the matters dealt with by the judicial Board. We promised to think over it. We shall also consult the High Court and the Judicial Board regarding its implication. Similarly, there was no difficulty about the National Flag. We have adopted our flag through a resolution by which we have adopted a symbol for our Sate. But, side by Side, we have laid down in our resolution that:-

"That the Union Flag to which we continue our allegiance as a part of the Union will occupy the supremely distinctive place in the State".

Our Flag does not mean that it is a rival flag. In fact we have the same regard for the Union Flag as is possessed by a patriot of India. Regarding the President of India.

"It was agreed that the powers to grant reprieve and commute death sentences etc. should also belong to the President of Union".

There is no scope of any objection on this point. Regarding Head of the State, it was desired that the Head should be an elected one, and after his election his name must be recommended for recognition to the Union President. The term of the office of the head of the State should not exceed 5 years, I will submit that, so far as Financial Integration of the State is concerned, we, being

apart of the Union, shall naturally have to work out some sort of financial arrangements with the Union. But first we must determine what these arrangements should be and how far can they be beneficial to us. It is essential, that the State being a part of India Union, our financial arrangements should have some link with India. Although the Centre would not, perhaps, benefit by this integration, yet we will be able to get financial aid when needed. In this connection I would like to tell the House that the Finance Department of India, is not willing to agree to these arrangements, and do not wish the Financial integration to take place.

Now let us see whether the States which have accepted the financial integration with the Union, have been benefited by these arrangements or not. The Mysore Government is not happy over this. The Union Government has taken over 18 of their departments and has fixed the basic pay of an employee at Rs.80/- p.m. whereas the State Government is paying only Rs.30/-- p.m. here. We also had to face this difficulty at the time when the raids took place some Indian Union Offices were opened here. The Mysore Government is also facing these difficulties today. They clearly realize that even if they pay only so much as the Union Government is paying by way of dearness allowance, their administration would be paralyzed. As stated by M.A. Beg, Shree Rajagopala Acharya has expressed his disapproval of such financial agreements, Mr. Sumpurana Nand, a famous personality of India, has opined that the States should fight for their rights and, if need be, take a stand against the Centre. Kashmir is serving a spear-head for these States. Every other State realizes that Kashmir is following the right path but keeps quite because it knows that in case Kashmir benefits in any way, it will also automatically be able to get some benefit. However, it is always the case that is the pioneer who suffers most. We have no intention to secede away from India. Everybody knows the conditions through which India and Pakistan were passing at the time of our accession to India. Our accession to India as I have stated in my last speech, is complete. Some people have pointed out that, if such laws are framed in India, she would

become weaker. I certainly think that it is better to strengthen the Centre. I also understand that the Federation formed voluntarily would be a stable one. America also had to face these difficulties when the decentralization question cropped up there. At the time of framing up of the Indian Constitution, it was imperative to have strong Centre. There was quite a good number of Rajas and Maharajas at that time and it was necessary that the Centre should be strong. Although it seems proper that the centre should not have a crippling control over us, yet the times necessitated rigid control to prevent chaos. All this, however, is for those people to see who are framing the Constitution for India. I will deal with it only so far as it concerns our State. We have abolished the dynastic rule here and nobody in India, excepting the reactionary element and the stooges of Rajas and Maharajas consider it to be a wrong step. We need not be worried as nobody can harm us in the least if we are united and have the same aspirations. Mr. Mukerji's visit gave me immense pleasure, but it was said that he stayed here only for two days. It would have been much better if he could have prolonged his stay for a month or two. In that case he would have been able to study the conditions here at first hand and would have realized that his information had no basis. After all he is a responsible leader and his prolonged stay over here could not have been harmful in any way. Pandit G.L.Dogra stated that his visit here was only to divide the State, but I would submit that it cannot be done. Nobody can divide this State if the public here is united; but otherwise everything is possible. We have to bring about a true union-a union of hearts. We should have nothing but good wishes for those people who are antagonistic to us today-even if they abuse us. This is my point of view and I want to make it clear to everybody.

Sir, after expressing my views, I do not want to add anything more. Many speeches have been delivered regarding my statement, and I have also tried to explain some points. There is no question of accepting this motion if we want to drift away from India. But, we, Hindus, Muslims and Sikhs, unitedly want to accede to India of our aspirations-India that is not the country of reactionaries only but of the progressive people also. I hope that the statement placed before

the House, would be supported by the House. There is, however, no question of supporting it if the House does not consider it to be right. So far as my opinion goes, I want that the relations between India and Kashmir should be smoothened and strengthened. The House has to take into consideration all these things, and should not think that only a few people of India are with us. On the contrary they should keep in view the fact that:-

We are fighting a people's struggle;

The fate of crores of labourers of India and Pakistan is dependent upon this people's struggle that we are fighting, but we should not be confused. Did not we know we gave over the land without compensation to the peasants that these Maharajas would try to create some fuss. We know, although it does not surprise us that these elements are trying to defame us. We should try to align ourselves with crores of people and carry forward our political programme. Those who favour the application of the whole of the Indian Constitution to the State wish it only because they think that they will be able to get back their lands in that case. They have got no sympathy for anything else. I submit that there are millions of people in Jammu in a pitiable condition. These people have never been able to stand on their feet. Those who raise slogans today that Indian Constitution should apply here in full want to bring about a complete ruin of these people and fetter themselves at the cost of these miserable people. We are fighting a struggle in accordance with our political and economic programme and we are fighting a battle of the people. We are fighting here for the people of Travancore, Cochin and Hyderabad, say we are fighting this battle for all the labourers of India. Hence we must try to understand all the implications of our duties. With these words I express my thanks to those who spoke in support of my motion, and further hope that Mr. Ghulam Rasool and Mr. Abdul Ghani would withdraw their amendments in view of my explanatory speech. I accept the amendment put forward by S. Kulbir Singh.

Hon'ble President: First of all, I place before you this resolution along with the amendment moved by S. Kulbir Singh which reads as follows:-

“At the end of the motion the following be added:-

And having considered the same this House approves all the steps taken so far in the matter is indicated in the statement.

And further place on record its deep appreciations of the spirit in which the matters were discussed and agreed conclusions arrived at.”

Now I put this amendment, alongwith the original resolution, before the House.

Mr. M. A. Beg: With your permission, Sir, may I understand that if this motion is put to vote alongwith the amendment moved by S.Kulbir Singh and if the motion is carried, all the other amendments will drop?

Hon’ble President: I shall put this amendment under Rule 32 clause (5) of the Rules of Business and I think if this motion is carried then automatically other amendments will drop.

Mr. Ghulam Rasool:- Sir, I submit that before this statement.

Hon’ble President:- I refer the Hon’ble Member to Rule 32 Clause (5) of the Rules of Business and Procedure and I think that will make the position clear.

Mr. Assadullah Mir: Sir, my submission is that all the amendments to the statement may be read out to the House and it would be better if the movers of these amendments withdraw them before they are put to the House.

Hon’ble President: Now I will read Rule 32 Clause (5) of the Rules of Business and procedure:-

“The Chairman may put amendments to the vote in any order he may choose.”

I think that the sense of the House is that the amendment in the name of S. Kulbir Singh may now be put to the vote.

☛ **Note:-** The motion alongwith the amendment of S. Kulbir Singh was put and passed unanimously. (Cheers).

***Hon’ble Bakshi Ghulam Mohammad:** Sir, have all other amendments proposed by other Hon’ble Members been dropped?

***Hon’ble President:** Yes, all other amendments drop automatically, Tomorrow, we are dealing with an important issue, but as the Assembly office is working

under a great pressure, we will meet tomorrow at 2 P.M. if the House has no objection.

Note:- The House agreed and adjourned till tomorrow the 20th August, 1952.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

Fourth Session

AUGUST, 1952

Wednesday, the 20th August, 1952/5th Bhadon, 2009.

The Constituent Assembly met in the Constituent Assembly Chamber, Srinagar, at two of the Clock.

Hon'ble President (Mr. G. M. Sadiq) in the Chair;

Hon'ble President: Hon'ble M. A. Beg.

Hon'ble M. A Beg:- President, Sir I and the Drafting Committee were directed by a resolution passed by this House on the 12th of June, 1952, to work out appropriate proposals in order to implement the resolution of this House regarding the termination of hereditary rulership in the State. I rise today. Sir, to present the report of that Committee for the consideration of this House.

Hakim Habibullah:- Point of order Sir, No list of Business has been supplied so far.

Note:- The Hon'ble Member was immediately supplied with the list of Business.

Hon'ble President:- The Hon'ble Mover may resume his speech.

Hon'ble M. A. Beg:- Sir, I beg to present the following report:-

REPORT

This Assembly unanimously adopted the recommendations contained in the Interim Report of the Basic Principles Committee with regard to the future Headship of the State on the 12th June, 1952, and directed the Drafting Committee to place within a period of one month. As it was necessary to have corresponding adjustments made in the Indian Constitution, it became essential to have consultations with the Government of India on this subject. Therefore, a

Delegation headed by the Undersigned, the Chairman of the Drafting Committee, was deputed to Delhi for the purpose.

Drafting the course of consultations certain other matters cropped up besides the questions of the future Headship of the State. All these matters and agreements arrived at between the Government of India and the representative of the Kashmir Government have been placed before this House in a statement made by the Leader of the House and have been approved by the Assembly.

It was on account of these consultations at Delhi that the Drafting Committee could not submit its proposals within the period prescribed in the above mentioned resolution of this Assembly,, and the Chairman requested you, Sir, for extension of the time limit in order to complete the task assigned to the Drafting committee. I am extremely grateful to you, Sir, that you very kindly agreed to put my request before the House.

Accordingly, I now seek the permission to present this report with the resolution and the schedule attached to it.

(Sd.) M. A. BEG

Date

19th August, 1952. (Sd.) All members of the Drafting Committee:-

☛ RESOLUTION

Whereas this Assembly adopted the recommendations contained in the Interim Report of the Basic Principles Committee presented on the 10th of June, 1952.

And whereas by its resolution, dated the 12th June, 1952, this Assembly directed that the recommendations so adopted be implemented and for that purpose charged the Drafting Committee to submit appropriate proposals.

Now, therefore, in pursuance of the resolution dated the 12th June, 1952, and having considered the report of the Drafting Committee, this Assembly resolves:-

1. (i) that the Head of the State shall be the person recognized

by the President of the Union on the recommendations of the Legislative Assembly of the State;

- (ii) he shall hold office during the pleasure of the President;
- (iii) he may, write in his own hand, addressed to the President, resign his office;
- (iv) subject to the foregoing provisions, the Head of the State shall hold office for a term of five years from the date he enters upon his office;

Provided that he shall, notwithstanding the expiration of his term, continue to hold the office until his successor enters upon his office;

2. that the recommendations of Legislative Assembly of the State in respect of the recognition of the Head of the State specified in sub-para (i) of paragraph I, shall be made by election;
3. that the method of election to qualifications for and all other matters pertaining to the office of the Head of the State shall be prescribed, in the Constitution, and until these are so prescribed, shall be as set out in the rules contained in the schedule annexed to this resolution;
4. that the Head of the State shall be designated as the Sadar-i-Riyasat;
5. that the Sadar-i-Riyasat shall be entitled to such emoluments, allowances and privileges as may be prescribed in the Constitution and pending the framing of the Constitution, to such emoluments, allowances and privileges as may be decided by this Assembly by separate resolution;
6. that the Sadar-i-Riyasat shall exercise such powers and perform such functions as may be prescribed in the Constitution to be framed by this Constituent Assembly, and until such constitution is framed, he shall exercised such powers and perform such functions as have hitherto been exercised by His Highness under the Jammu and Kashmir Constitution Act, 1996, as amended by Act No. XVII of 2008.

7. that in the event of the occurrence of a casual vacancy in the office of the Sadar-i-Riyasat by reason of his death, resignation or otherwise, the powers and functions exercisable by the Sadar-i-Riyasat shall until the assumption of office by then newly elected Sadar-i-Riyasat in accordance with the procedure laid down in this resolution, be exercised and performed by the person recommended by the State Government for recognition as Officiating Sadar-i-Riyasat to the President of India; and
8. that this Assembly shall in due course provide a suitable remedy in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of the Sadar-i-Riyasat.

This assembly further resolves:-

That the prime Minister of Jammu and Kashmir State is authorized to communicate a copy of this resolution to “the Government of India for favour of appropriate action to enable its being given effect to”.

SCHEDULE (PARA-3)

1. Qualifications:- (1) No person shall be eligible for election to the office of the Sadar-i-Riyasat, unless he--

(a) is a State Subject of Class I as defined in the State Subject

Definition Notification No.I-L/84 dated 20th April, 1927.

(b) has completed the age of 21 years, and

(c) is not subject to any of the disqualifications specified in rule 4 of the Jammu and Kashmir Constituent Assembly Election (Part 1) Rules, 2008, for being chosen as a member of the Constituent Assembly.

(2) A person shall not eligible for election as the Sadar-i-Riyasat if h e holds any office of profit under the Government or under any local or other authority subject to the control of the Government.

2. The Sadar-i-Riyasat shall not be a member of the Legislative Assembly of the State, or if a member of the Legislative Assembly of the State, he

shall be deemed to have vacated his seat in the House on the date he enters upon his office as the Sadar-i-Riyasat.

3. the Sadar-i-Riyasat shall hold no other office of profit.

4. Method of Election:-

(1) When election to the office of the Sadar-i-Riyasat becomes necessary, the Speaker of the State Legislative Assembly shall fix time and date for the holding of the election and shall cause a notice thereof to be sent to every member.

(2) At any time before noon on the date preceding the date so fixed, any member of the State Legislative Assembly may nominate another person for election by delivering to the Speaker or any officer authorized by the Speaker in this behalf, a nomination paper in the form prescribed in the annexure to this schedule signed by himself as proposer and by another member as seconder.

(3) Any person who has been so nominated may withdraw his candidature in writing addressed to the Speaker at any time before the Assembly proceeds to hold the election.

(4) At the time fixed for election under sub-clause (1), the Speaker or in his absence the person presiding shall read out to the Assembly the name of the persons who have been duly nominated and have not withdrawn their candidature together with those of their proposers and seconders and, if there is only one such candidate the Assembly shall proceed to elect the Sadar-i-Riyasat by ballot.

(5) Where there are only two candidates for election, the candidate who obtains at the ballot the larger number of votes shall be declared elected. If they obtain an equal number of votes, the Speaker or in his absence the person presiding shall exercise his casting vote and the person in whose favour such vote is cast shall be declared elected.

(6) Where more than two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the

smallest number of votes shall be excluded from the election, and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election, until one candidate obtains more votes than the remaining candidates, or than the aggregate votes of the remaining candidates, as the case may be, and such candidate shall be declared elected.

(7) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under sub-clause (6), the determination as between the candidates whose votes are equal of the candidate who is to be excluded shall be by the casting vote of the Speaker or in his absence of the person presiding.

5. The Prime Minister of the State shall communicate the name of the person duly elected by the Assembly as the Sadar-i-Riyasat to the President of India for being recognized as the Sadar-i-Riyasat.

6. Oath:- The Sadar-i-Riyasat shall, before entering upon his office make and subscribe in the presence of Chief Justice of the State High Court or in his absence any Judge of the High Court available an oath or affirmation in the following form, namely:-

“I, A.B., swear in the name of God/Solemnly affirm that I will faithfully execute the office of the Sadar-i-Riyasat, Jammu and Kashmir and will to the best of my ability preserve, protect and defend the Constitution of the State as by law established and that I will devote myself to the service and well being of the people of the State.”

ANNEXURE TO THE SCHEDULE

Nomination Paper.

Election to the office of the Sadar-i-Riyasat

We hereby nominate.....
.....(Full name and address of candidate)
candidate for election to the office of the Sadar-i-Riyasat, Jammu and Kashmir.

We have verified, and do hereby declare, that the said Schedule to the
Resolution dated.....August 1952 of the Constituent Assembly.

Signature of proposer.....

Name of Constituency.....

Date.....

Signature of Seconder.....

Name of Constituency.....

Date.....

I assent to this nomination.

Signature of Candidate.....

Date.....

***Hon'ble M. A. Beg:** Sir, I have in detail submitted all those relevant matters in the resolution, as are necessary for the election of the head of the State. I have moved that the future Head of the State shall be the person recognized by the {resident of the Union on the recommendations of the Legislative Assembly of the State and he shall hold office during the pleasure of the President. He may also resign his office. Such person shall hold office for a term of five years, during which period he may tender his resignation or be removed from the office. On behalf of the Drafting Committee I have added a proviso to the effect that if the person to be elected to this office is not immediately available, the Sadar-i-Riyasat shal, notwithstanding the expiration of hi term of office continue to hold office until his successor is elected (and enters upon his office). In the opinion of

the Drafting Committee, we have to see and to provide for all those eventualities, chances and events that occur in the ordinary course of our life. If the Sadar-i-Riyasat is elected on the first day of the month of August, 1952 his term of five years shall expire on the first day of August, 1957. It is just possible that another person to be elected to this office is not available exactly on due date and so a gap is created. To fill up and regularize this gap the proviso has been added at the end of paragraph-I

(iv). After discussing the matter the Drafting Committee in consultation with other leaders has proposed that the Head of the State shall be designated as the Sadar-i-Riyasat. His name will be recommended to the President of India by the Legislative Assembly of the State. I have dealt at length with this issue. This recommendation will be made by election. The Legislative Assembly will elect such person recommended his name to the President of India for recognition as the Sadar-i-Riyasat. The rules of election in this respect as I have read out in English are incorporated in the Schedule. The qualifications as well as disqualifications for election to the office of Sadar-i-Riyasat are given there. We have proposed that the Sadar-i-Riyasat shall be a first class State Subject and must have completed the age of 21 years. He shall not be a member of the Legislative Assembly of the State, he shall be deemed to have vacated his seat in the house on the date he enters upon his office as Sadar-i-Riyasat. Another condition, which we have made obligatory in this behalf is, that the Sadar-i-Riyasa' shall not hold any other office of profit. Until final, rules are framed in this behalf we shall have to follow these rules.

What amount will the Sadar-i-Riyasat receive by way of allowance, and emoluments is a point that needs to be considered. We have proposed in this behalf that Sadar-i-Riyasat will be entitled to such emoluments and allowances as may be decided by this Assembly by a separate resolution. It is laid down in the report that in the event of the occurrence of a casual vacancy in the office of the Sadar-i-Riyasat by reason of his death, resignation or otherwise, the powers and functions exercisable by Sadar-i-Riyasat shall, until the assumption of the office by the newly elected Sadar-i-Riyasat be exercised and performed by the

person recommended by the State Government for recognition as Officiating Sadar-i-Riyasat to the President of India. A body competent to elect a person has constitutionally and legally an inherent right to remove him from the office. This is a complicated legal issue which needs a wide study of the law of different countries.

Another clause of the resolution lays down that this Assembly shall in due course provide a suitable remedy in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of the Sadar-i-Riyasat. In the even of misconduct or indulgence in any unlawful political activity by the Sadar-i-Riyasat he may be removed from his office, which involves a complicated procedure. We have to consider as to how such a charge can be brought against the Sadar-i-Riyasat and in case the Assembly itself is invested with such power, the number of complainants required in this behalf as also the type of tribunal to investigate such a charge has to be specified. We shall have to determine the proportion of the majority that is needed to ratify the decision of tribunal when the same comes before the Assembly. This is a very lengthy procedure and because of very limited time at our disposal. We could not submit such proposal before the House. Therefore, it has been provided that the Assembly will in due course frame rules for the removal of the Sadar-i-Riyasat and we have not included any detailed proposals in this behalf. The rules to be framed in this connection will be incorporated in the Constitution to be shaped by this Assembly. At the end of the resolution it has been recommended that, after the Legislative Assembly has elected the Head of the State, the Prime Minister of the State will recommend the name of such person to the President of India for favour of appropriate action thereto. Sir, the resolution of the Drafting Committee is before the House now, and I move that the resolution be taken into consideration.

***Hon'ble Pt. Girdhari Lal Dogra:-** Sir, although every country is renowned for one achievement or the other but the chief characteristic of the twentieth century lies in the fact that the suppressed and ruined masses of the world sloughed off their stupor, were shaken to realities and were enthused with a spirit of human

sympathy. A strong desire for emancipation swept over the length and breadth of the globe like a wave which did not spare Kashmir and a great struggle for democracy started here culminating in the birth of this House. This House set up a Basic Principles Committee, which had laid down three principles in its Interim Report, i.e. firstly that the State shall have a democratic Constitution; secondly that the hereditary rulership shall be terminated and thirdly that the future Head of the State shall be elected. The Drafting Committee had these three principles before it. This Committee was directed to place before this House appropriate proposals in this behalf. The Basic consideration that Kashmir forms a part of India, was kept in view while framing these proposals and presenting the same before this House, so as to leave no room for any doubt or inconsistency with the Constitution of India. All this is given in the preamble of this resolution and I repeat it because I want that the House should know the entire background which influenced the Drafting Committee in framing these proposals. Keeping all this in view Hon'ble M.A. Beg has presented before the House this report which contains very important matters. The agreements (arrived at between the Government of India and the representatives of Kashmir Government) are based on the resolution already approved by the House.

Mention of the elected Head of the State is made in sub-para (1) of paragraph-I of the resolution. The recommendations (in respect of recognition by president of India) will be made on the basis of election, and such election will be the function of this House and the rules pertaining there to are contained in the schedule. If you study the schedule, you will come to know that the completion of the age of 21 years has been prescribed as the age of *Sadar-i-Riyasat*. It is possible that the significance of this condition may not be understandable to some people. It is so because the Drafting Committee thought it advisable to fix the same age as has been prescribed for the voters for a general election. It has been done with a view to widen the scope of election rather than limiting it. This resolution has been framed with due consideration to all these facts. I hope that the House will adopt this resolution.

***Hon'ble President:** Before I proceed to put the motion before the House, I would invite its attention to a specific point. The Hon'ble Mover has also alluded to it in his speech. In the last session when the Interim Report of the Basic Principles Committee came up for consideration before this House, the Drafting Committee was directed to present its report within a period of one month. Because of certain circumstances, already mentioned by the Hon'ble Mover, the report did not reach me within the prescribed period of one month and I was not in a position to summon the House. I informed the Chairman of the Drafting Committee about the situation and the later there upon made a request for the extension of the time limit. I accordingly place the request of the Chairman before the House. The drafting Committee had to spend more time for the completion of the task assigned to it and I hope that the house will appreciate their difficulties and accord formal sanction to the extension of time prayed for.

Note:- The Hon'ble members agreed unanimously.

Mr. Assadullah Mir: Sir, before the report with the resolution attached to it taken into consideration, I submit that as the report has been placed before the House just today and moreover it is an important matter, the Hon'ble members may be given time to study the same.

Hon'ble President: Hon'ble member can make this suggestion after the consideration motion. The question is that the resolution enclosed with the report of the Drafting Committee prepared in pursuance of the resolution of the Constituent Assembly date the 10th June, 1952 regarding the implementations of the recommendations contained in the Interim Report of the Basic Principles Committee be taken into consideration.

Note:- The motion was put to the House and adopted unanimously.

Mr. Assadullah Mir: I beg to draw your attention to the submissions made by me just now. Framing the rules and regulations in regard to the election to the Sadar-i-Riyasat is a matter of great importance but the report of the recommendation and the draft of the resolution has been presented just today. It was but proper that we should get three or four days for the consideration and study of relevant literature, after which he shall be in a position to discuss the different aspects of t

his proposal. Justice demands that sometime may be allowed for its consideration.

Hon'ble President:- Has the Hon'ble mover any objection to the request by Mr. Assadullah Mir?

Hon'ble M. A. Beg: Sir, we shall abide by our wishes.

Hon'ble President: In regard to the suggestion made by Mr. Assadullah Mir, I think that the House wants time to consider the report. As the time at our disposal is limited, I think it proper to meet tomorrow at 2 P.M. when the suggestion will be discussed. This closes the business for the day and we shall adjourn till 2 P.M. tomorrow.

Note:- The House is adjourned till tomorrow, the 21st August upto 2 P.M.

JAMMU & KASHMIR CONSTITUENT ASSEMBLY DEBATES
SRINAGAR SESSION
1952-2009

Thursday, the 21 August, 1952/6th Baisakh, 2009.

The Constituent Assembly met in the Assembly Chamber Srinagar, at two of the Clock.

Mr. President (Hon'ble Ghulam Mohammad Sadiq) in the Chair.

***Hon'ble President:** Before proceeding with the discussion on this resolution. I would draw the attention of the Hon'ble members to the fact that there is little time at our disposal. Every member will, therefore, please note that he will be allowed fifteen minutes at the most to deliver his speech.

First of all, I would ask the Hon'ble members who have given notice of amendments, to move their amendments.

***Mr. Mubarik Shah:** Sir, I move:-

(a) "that sub-clause (2) of clause I may be deleted and the figure (1) within the brackets be omitted."

(b) "that in sub-clause (b) of clause I so amended the words 'on the date of filing the nomination paper' be added after the words 21 years."

Sir, I would like to submit.....

Hon'ble President: Speeches will be delivered after all the amendments are moved. Mr. Mubarik Shah has moved the following amendments:-

Note:- Repeats the amendments moved by Mr. Mubarik Shah.

Hon'ble President: Hakim Habibullah

The star mark indicates that the speech was delivered in Urdu and the English translation thereof is incorporated in the debates.

Hakim Habibullah: Sir, I move:-

"that in sub-para-I of para-I of the Resolution appended to the report of the Drafting Committee for the words "President of the Union" "President of India be substituted."

Hon'ble President: The following amendments have been moved:

Note:- Repeats the amendment moved by Hakim Habibullah.

Hon'ble President:- Mr. Mubarik Shah will please speak now.

***Mr. Mubarik Shah:** Sir, while moving the amendments I would like to make a submission in explanation of the resolution moved by Hon'ble M. A. Beg. There are; in my opinion, two aspects of the resolution put before the House in regard to the election of the Head of the State in consequence of ending of the hereditary Rulership. One of the aspects is of domestic nature which relates to us. The other relates to our constitutional relationship with India. According to the theory of separation of Powers when feudal system is ended the organs of the state are divided in various parts to run the administration regularly and to avoid flaws and such other things. The theory of separation of power was in reality.

Personal separation of power. But today it is an organic separation. It is the division of the duties which are essential for proper administration of the State, I have submitted it in order to find out as to what the position of the head of the State according to the plan should be. Although it has been said in the resolution that this Assembly shall, in future, frame a Constitution with regard to the power and function of the Head of the State, yet we cannot maintain any rigidity in the theory of separation of power, because the problem, the Government are facing inter-dependent. The Head of the State, therefore, in my opinion, is the Head of this Executive. In that case shall have to determine his functions.

Hon'ble M. A. Beg: Should clause (b) be deleted?

Mr. Mubarik Shah: No.

Hon'ble M. A. Beg: Sir, is the arguing theory of separation of powers or advancing arguments in favour of his amendments?

Hon'ble President: He is discussing the resolution which is before the House.

***Hon'ble Mubarik Shah:** Sir, I was explaining that the position of the Head of State should be that of a Head of the Executive. To make this institution effective, maintenance of rigidity is essential. This issue may, however, be discussed later on. By the amendment for which I have given notice. I mean that sub-clause (2) is unnecessary. In sub-clause (i) of Section (c) it has already been provided.

“that no person shall be eligible for election to the office of the Sadar-i-Riyasat unless he is subject to any of the disqualifications specified in Rule 4 of the J&K Constituent Assembly Election (Part-I) Rules 2008 for being chosen as a member of the constituent Assembly.

In this connection I may submit that Rule (4) of the Jammu and Kashmir Constituent Assembly Rules provided as follows:-

“A person shall be disqualified if he holds an office of profit in Jammu & Kashmir Government or Government of India or any other State Government in India or is a whole time employee in any Municipal or local body in State.”

These words, in my opinion, are redundant. Clause (c) is exhaustive. Sub-Clause 92) is not needed and because of its being superfluous should be deleted. Figure 9I) of the Sub-clause I, should also be deleted.

As for the second amendment of which I have given notice, my submission is that this resolution contains the words “has completed the age of 21 years” which do not clear the point whether the nominee should be of the age of 21 years before filing the nomination papers or after he assumes charges of that office. I have moved this amendment because this point is not clear.

Sir, I hope the Hon’ble mover will accept these amendments. AS regards other aspects of this resolution most of the Hon’ble members have spoken on it. I do not think it advisable to speak further in this respect. So far as the Headship of the State is concerned I think it to be a compromise between the unitary conception of the constitution and the federal conception with regard to India and our Constitutional relations thereto.

While supporting this resolution I request that it be passed in its amended form.

***Hakim Habullah:** Sir, sub-para (1) of Para 1 of the resolution put before the House yesterday by the Drafting Committee contains:-

“that the Head of the State shall be the person recognized by the President of Union.....

In this connection the amendment proposed by me is that “President of the Union” be substituted by “**President of India**” Art.52 of the Constitution of India provides “That there should be a President of India”. There is no mention of the President of the Union in this article. Besides, the “President of the Union” can be taken for President of some other Union. If we substitute it by the President of India no misunderstanding shall crop up. For these reasons I submit that “President of the Union be substituted by “president of India” in the report.

Hon’ble M. A. Beg: Mr. President I accept both the amendments moved by Mr. Mubarik Shah. In clause (a) of amendment (i). Mr. Mubarik Shah has said that figure (i) also be omitted. Sir, it will require a check up by the office. It should have been figure (i) alongwith the brackets be omitted. Mr. Muibarik Shah has

deleted the figure (i) within the brackets and not the brackets. I may submit that both the figure (i) and the brackets be omitted. (Cheers). So amendment I-(A) is accepted with these observations. In regard to his amendment (B) I may say we kept in the resolution the age of the Sadar-i-Riyasat as 21 years. We did not fix the time when he should complete 21 years whether before filing the nomination papers or afterwards. We left it open, because, we thought that it will be interpreted at the time of filing the nomination paper and that it will be decided at the time of scrutiny. Since the House, is desirous of fixing the time in this behalf i.e. he should have completed 21 years on the date of filing the nomination papers. I have no objection and I accept this amendment.

As regards the amendments filed by Mr. Habibullah, I may say, it is due to clerical mistake that in clause I sub-clause (i) the words "President of the Union" have been written instead of President of India". I agree to it as it is a more legal term. I accept this amendment as well.

Hon'ble M. A Beg: Sir, I now move that the resolution as amended by the House be passed.

Hon'ble Pt. G. L. Dogra: Sir, I second it.

***Mr. Assadullah Mir:-** Mr. President: A resolution on the Interim report of the Basic Principles Committee was submitted before the House on 12th June, 1952. This Interim Report, submitted by the Leader of the House, was accepted unanimously. So far as this report is concerned, it contained recommendations in regard to the three basic principles; Firstly, the future system of the Government of Jammu and Kashmir State be based on the principle of democracy: secondly the institution of Hereditary Rulership be done away with thirdly, the office of the Head of the State, after ending of Hereditary Rulership, be elective. Of these three basic issue the House unanimously gave its verdict that our Governments shall be based on the principles of Democracy and the office of the Head of the State shall be elective. Accordingly, in this connection the Drafting Committee was assigned the task of properly submitting proposal at proper time and of framing Rules and Regulations with regard to the election of the future Head of the State, so that the House, after considering it, may approve it. So far as the

procedure laid down in the Resolution of the Drafting Committee, submitted by its Chairman, Hon'ble M.A. Beg is concerned, the Chairman of this Committee has thoroughly explained it yesterday. I would limit myself to the extent of the procedure regarding the election of the head of the State and through this House would explain to the people the spirit thereof, Mahjoor the late revolutionary poet of Kashmir long ago, has well said:-

“it will be the Kashmir is who will sound the clarion call and rouse the slumbering people of East. I have to make my people conscious of the role they are destined to play.’

Kashmir will lead other nations towards democracy and the time has witnessed the fact that the epoch of Kingship has ended and the Democratic system alone will have the day. Today, when the House will approve of this resolution, we shall be constituting a new structure of the nation, structure that will be symbol for whole of the East.

Sir, prior to this, when the resolution in regard to the abolition of Hereditary Rulership was put before the House, all the Hon'ble members expressed their views in justification of various aspects of the termination of this institution. Accordingly now I do not consider it proper to reiterate those views. We are running through the twentieth century when the supremacy of the rich and the institutions of estate holding and Kingship are being wiped out of existence. All position of distinction are now open to every individual and an individual, however, poor he may be, may aspire to the highest position of distinction only if he is imbued with those genuine sentiments for public service which manifest themselves through his spirit of self-sacrifice and self-abnegation for the welfare of people in general. Kashmir has put an end to that regime which has virtually shocked most of the world today. In fact Kashmir has given lead to whole of Asia in abolishing an institution of tyranny and violence and today even the poorest Harijan, the poorest Mussalman, the poorest Sikh and the poorest Hindu, born on the soil of the State, can aspire to the position of the Headship of the whole State and so long as the people choose be can continue in the Chair. And Sir, I may submit that today we can raise up our heads in pride. But it shall be nothing short

of injustice to my sentiments if I do not vis-à-vis express a few words of gratitude for the Leader of the House who laid this popular view point before the world. (Cheers). The learned poet. Iqbal has aptly said and he has set this verse most probably in regard to Kashmir when happily he dream of the independence of our land which dream has now assumed material shape through the personality of our Sher-i-Kashmir. (Cheers) He says.....

**“A new world is growing forth
On the remains of the old one
Which here fore the Westerners
Had turned into gamblers den”**

In regard to this democratic move on our part various gossips are afloat in different quarters and there are some elements who are putting their best foot foremost in order to review the old rotten capitalistic regime and thereby reclaim the sovereignty of the Rajas, Maharajas and Nawabs. And they accuse Kashmir of having adopted a novel measure. But in accordance with the learned (Late) Sir, Mohammad Iqbal;-

“The dauntless Darwish with his princely gait Doth continue with his burning lamp. Despite the swift and the sharp blast.”

Here the smiles are quite vivid: Kashmir with its advancing democratic measure is a burning lamp in the path of the sharp of criticism from different quarters and Sher-i-Kashmir is the mendicant holding the said lamp, intact and advancing ahead. Sir, with these words, I support the resolution.

***Mahasha Nahar Singh:** Mr. President! Sir, this is the second day of the debate on the report submitted by the Drafting Committee before this House. Sir, his measure suggested by the Drafting Committee is ipso facto based upon the principles laid down in our New Kashmir Programme and in fact this is the right path for every human being to tread upon. New Kashmir Programme is that Constitutional Programme of our country by virtue whereof all rights are vested in people. The Constitution of India, which has been framed for 36 crores of its people has been framed in accordance with the will of the people and in framing it, consideration has been given to everything that relates to the welfare of the

masses. The recommendation made by the Committee in its Report is that the 10 crore inhabitants of the States of India have got the same right to determine the future of the Headship of these States as the people of India have got their right of determination in this regard. The President of the Union of India has been chosen by the people of India and accordingly here too the voice of the masses came forth demanding the termination of the centralization of power, in the hands of one individual especially in the hand of those who have for centuries past been crushing these masses. As a matter of fact, how could that personal rule continue to cow down the masses who are advancing ahead on the high levels of democracy. Those were olden days when the voice of masses could go unheeded for. Those were the days when capitalists and landlords alone could approach the Maharaja. Peasants and the proletariat were illiterate. They were afforded no opportunity to be listened to. That was personal Rule and therefore there was no questioning of the actions of our Ruler and the right of an individual subsisted by the discretion of the Ruler. Today, it is an occasion for immense pleasure that the headship of our State is to be elective and that the head of the State has to abide by the will of the people. I feel that every individual of our State has his say in this matter. I would like to add that even the appointments of those employees whose pay exceed Rs.100/- should be based on the principles of election, so that those officers who are corrupt and tyrant might develop in themselves the consciousness of the fact that for all their actions they shall be answerable to the people by virtue of whose confidence they hold their appointments. The election, I talk of, should be devoid of communal considerations, reactionary elements and the discrimination between high and low. Every office bearer of our Government should realize that for all his misdeeds he shall be answerable not only to the people of country but also to that Almighty who has created us, it is for us to materialize the principles laid down in our New Kashmir Programme and it is for us to weed out all evils that have grown or may grow amidst us. We must properly deal with the different organizations that are coming into existence in our country. Notwithstanding the elections in different countries of the world the type of election in regard to the

Headship of our State is the first of its kind all over India and accordingly I would request the Hon'ble members to avoid confusion between their views and their sentiments and to steer their country successfully on the path of the principles laid down in our New Kashmir Programme.

***Mr. Mohammad Ayub Khan :** Sir, the Report of the Drafting Committee which is now before the House, is in consequence of the historic decision taken by the House in its last session. I want to express my views in brief in regard to the reaction to the said decision. I am of opinion that the decision taken in this connection inculcates the triumph not only of the 40 lacs of people of the Jammu and Kashmir State but also the triumph of the crores of people of India, who are still under the grip of "PERSONAL RULE". Our decision is a message for freedom for all the people of the Indian States. But while on the one hand we have a complete support and co-operation of the democracy loving people of India in regard to our decision on the other hand the reactionaries, whose vested interests are jeopardized by our decisions, are putting their best foot forward to render this decision ineffectual but they are helpless in face of such principles which are outcome of truth and righteousness. These reactionaries, advanced many objection against this decision taken by us. They would say that since Raj Pramuks are now merely constitutional heads. It is meaningless to disturb their locus standi. But in the present time when autocracy is coming to an end giving expression to such views is nothing short of being a reactionary. Even in our own State there are some people who hold that the existence of the Maharaja was the only means for the unity of the whole State, I admit that Maharaja was a means for the unity of the State but then his regime was founded on coercion and violence. History evidences the fact that no community can be united with any other community unless of course complete freedom is the basic principle of the union. The union of Jammu and Kashmir and Ladakh, prior to this time, was based on force and violence. Who knows how Maharaja Ghulab Singh conquered Jammu: how he conquered Ladakh; how he conquered Kashmir. Under these circumstances it was purposeless to continue with such a regime. We want to establish such a union of Jammu, Kashmir and Ladakh as is based

on mutual consent, freedom, brotherhood and equality. With these words, I strongly support the Resolution put before the House.

***Mr. Bhagat Ram Sharma:-** Mr. President Sir, In the last session of this House, decision was taken regarding the termination of the hereditary Rulership and at that time I had expressed my views in detail. It is said that we are putting an end to the Dogra Rule in the State but in fact the Dogra Masses and the Dogra Rule are not a white identical. Both stand poles asunder. It was, however, believed that some centered persons, in order to meet their own ends, might have created some misunderstandings in the minds of Dogra masses by instigating their sentiments. But when at the close of the last session on my tour to my constituency; I made several speeches in regard to the decisions taken by the Assembly for the termination of Hereditary Rulership and told the people that the Head of the State was to be elective and not hereditary. I found that masses had no interest either in the hereditary principle or the principle of elective headship of the State in as much as their sole question although my speeches were whether His Highness the Maharaja of the State was not going to return and resume his power and thereby deprive them of the lands which had bent transferred up to them by virtue of Big Landed Estates Abolition Act. In other words the termination of the Hereditary Rulership did not create grievance in their hearts. But their demands in unequivocal terms were in regard to the continuance of the measure of land to tillers cheaping the price of salt and doing away with corruption and bribery. They only asked, "shall we no more stand subject to the insolvency of office? Will the problem of unemployment cease or stand?"

Mr. Assadullah Mir:- Sir, at present the subject for discussion before the House is in regard to the election of the head of the Sate and the qualifications required thereof but the Hon'ble member is deviating form the main subject of his speech.

Hon'ble President : The Hon'ble member is a liberty to advance any arguments in support of the resolution.

***Mr. Bhagat Ram Sharma:** (Continued).....

I was throwing light on the views of the people in general in regard to the termination of Hereditary Rulership. In the last session I had submitted in detail what tyranny Dogra masses were subjected to under the Dogra rule. Masses want the abolition of autocracy after its abolition they want to see the consequence thereof in some concrete form and masses are in agreement with whatever decisions we have taken here. When we arrived here this time to attend that session we had some other intensions also. W thought that the Drafting Committee will not only submit a resolution and that we shall not only approve it but shall elect the head of the State also. But this was not possible this time and the Drafting Committee is also quite aware as to why this could not be done. In my opinion this resolution is necessary to be put before the House in order to implement it. By implementation we meant to take practical steps after accepting the principle and stop payment of lacs of rupees which the Maharaja is paid at present. But such steps could not be taken.

It is not known when this Assembly will meet again. My submission is that after framing rules regarding the election of Sadar-i-Riyasat it is not advisable to be silent but such steps should at once be taken so that the decision taken could be practically materialized.

***Mr. Krishan Dev Sethi:** Sir! The Constitution of a State, its laws, social and economic structure, in fact reflect the class in power and the basis on which its Government stands because the class in power frames the Constitution of the country and builds its economic structure according to its own principles. Today the system of Government can be judged only according to the classes in power, because, laws are framed by a class, which is in power, for safeguard of its rights. As regards our system, the National Conference has many a time declared that it will do away with exploitation and establish a socialistic system. It is, therefore, that the Constitution of our State which is to be framed will be based on this principle. In view of the experiences of the movements of the world I t becomes necessary to demolish the old order which strengthened the exploiters and which was a means of exploitation of the poor. Today we are taking up only

one issue i.e. headship of the State. When we decided to abolish the Hereditary Rulership the question could be raised as to why a Governor or a Raj parmukh be not appointed by the President of India. The struggle waged for freedom of oppressed peasants and workers in the world died away in cases where bureaucratic system was not ended. This does not only mean that whole executive should be elected: the judges of the courts should be elected, "NAYA KASHMIR" was not a revealed book but was written with the experience gained from the world movement. That time we had in mind that bureaucracy should be eliminated and the executive elected. According to the freedom visualized in NEW KASHMIR not only the office of the Head of the State but all the institutions also should be elective. If this is done, there is no doubt about our progress. I may submit that unless all the institutions are elected we cannot make any further progress. This is a fact that not only were our people benefited by the Land Reforms but it gave a fillip to the movement in India also. But to make these reforms a complete success all the institutions should be elected on the basis of NEW KASHMIR. Had these reforms been implemented in a democratic way our movement today would be very strong and no difficulties would arise in our way. It is, however, matter of details which I shall discuss some other time. In spite of the opposition from all the reactionaries and the exploiting elements of Jammu, the Leader of the House and this Assembly have given a death blow to the forces of reactionaries by declaring to the people of India that the Head of the State shall be elective. If we do otherwise and say that the Head of the State will not be one elected and that he shall be a Raj Parmukjh or Governor, then in that case the cause of self-determination for which we have been fighting would be defeated. By accepting the principle of electing the Head of the State we have carried forward the principle of right of self-determination and for this National Conference deserves congratulations. The people of India and Pakistan on whom Raj Parmukhs, Governors or Nawabs have been thrust also congratulate us.

I may, at the same time, submit that today there are various forces and elements which are bent upon liquidating our revolutionary measures. I have

already placed the details about them before the House the previous day and some of my friends had explained them. But I do not know in what light the Leader of the House took my statement. During the course of his speech the Leader of the House said in reply to that of mine that we should not side with any of two camps in which the world is divided. This is a golden principle but we have to see why we oppose the Anglo American Block. It is not merely due to inclination towards any block, but in fact we do not want any elements to intervene lest they defeat the reforms which have brought about the Headship of the State and other matters. We know who was responsible for establishing the feudal system in India and as to who installed Rajas, Maharajas and encouraged the exploiters. They were the fellows on whose strength was established the Hereditary Rule. Not only the blood of poor tillers of the soil was sucked but whole of the poor masses were crushed in the clutches of the money lenders. If these elements succeed in intervention or infiltration, our country will not only turn into a theater of third world-war but it will be virtually ruled by the interventionists. This will result in the liquidation of our progressive measure and ending of our revolutionary measures, such as Land Reforms, implemented the country. While supporting this resolution I would impress upon all the Hon'ble members that we should unitedly fight these elements.

Moreover, I would like to State that not only in India but here also it is rumoured that the people of Jammu want that the Maharaja's Rulership should continue. This is not a fact. The people of Jammu, the workers and peasants, have all along been oppressed. Their blood also was sucked for centuries past like the people of Kashmir. The age of Raja's and Maharaja's is coming to an end and all the exploiters are plunged into the sea of oblivion. No wise and conscious person will beat the domination of Maharaja over the country and its people. The people of Jammu want that Hereditary Rulership be ended so that the measures adopted in line with the programme of New Kashmir prove a success. Of course they have raised some demands and it is the duty of the Government to fulfill these. This will be a part of the fight which we have launched against the

reactionaries who today want to achieve their aims by making capital out of the grievances of the people of Jammu.

***Major Piar Singh:** Sir, The recommendation of the Basic Principles Committee were submitted to the House on 12th June, 1952. These recommendations were thoroughly discussed in the House. The conclusion of the views expressed by the Hon'ble members in this behalf was that the hereditary Rule should be ended. According to this resolution the Autocratic rule should be done away with and the Government run on democratic lines the hereditary rule of the Maharaj should be ended, the office of the Head of the State should be filled up through election. With regard to the other three decisions the House had directed the Drafting Committee to submit proposals for implementation of these resolutions. It is in this connection that Hon'ble M. A. Beg the Chairman of the Drafting Committee has submitted a resolution which embodies suggestions as to how in future the office of the Head of the State be elected. All the sections of the resolution reveal that the system of the Government is being shaped in accordance with the principles of democracy. Recently we made a tour of our illaqa and had a talk with most of the people in this connection. All of them were of the opinion that the office (of the Head of the State) should also be filled up through election. Mr. Bhagat Ram has also explained that the people are very eager about the election of this office.

Sir, the democratic people of India have supported the decision arrived at Delhi recently between the Delegation of the State and the Government of India. The decision which will be taken with regard to the issue before the House will be sent to the Government of India and after its ratification it will be given a practical shape. Some of my friends have said that all the offices should be filled up through election like that of the Head of the State. Maharaja Nahar Singh has even gone to the extent of demanding that all the offices in the State paid above rupees one hundred should also be filled up through elections. I may submit for their information that the executive has been elected out of the 75 members of the House and it is according to their choice that they have appointed the executive officers. These officers are vested with powers to dismiss an official if

he is found guilty of some mischief, if such officials are elected it would result in disruption in the administration because every individual will then come with a complaint against such officers.

So far as the schedule of the resolution regarding the election and the qualification of the Head of the State is concerned, I think it does not need any more explanation and that no member has any objection to it. While supporting this resolution I would congratulate late Sher-i-Kashmir and also the Leader of India who while deciding this issue have respected our sentiments.

***Mr. Moti Ram Begra:** Sir, the report of the Drafting Committee which is before the House explains as to how the election of the Head of the State will be conducted. This report contains some such things which will be embodied in the draft Constitution in due course of time. However, this report is not in detail. In the last session of the Constituent Assembly it was passed that Hereditary Rule shall be abolished and the future Head of the State shall be elected. Sir, I think this report is the practical shape of the ideas expressed by the Leader of the House in 1946 through the slogan of "Quit Kashmir". This expression of the rising people movement compelled Pandit Jawaharlal Lal Nehru to have all his engagements cancelled and come to Kashmir (Cheers) to respect sentiments of the people. The Chairman of the Drafting Committee has explained as to why the Committee could not submit its report earlier. It would be a source of great pleasure if this report was complete and given practical shape in the presence of Pandit Ji. These are, however, my sentiments. I was explaining that in this report it has been cleared that sovereignty belongs to the people (Cheers). As regards our old friend, would like to remind you of an event. During the course of our "Quit Kashmir" movement the then President of the Indian National Congress, Kripalani, who today is forming a new party came over here and said if Kashmir's case was separated from that of other States it would turn into a permanent base of British people. I remember it well that he uttered these words in the capacity of the President of the congress, although the National Conference was following the policy of the National Congress. In spite of this fact Mr. Kripalani was unable to understand the slogan of "Quit Kashmir" and if he today intervenes in the

politics of Kashmir he does it to gain importance for himself. Similar is the case with Dr. Shyama Prashad Mukherji, who as told by Hon'ble Pt. Girdhari Lal Dogra, by intervening in the politics of Kashmir is desirous of achieving personal reputation. I would however, impress upon the Leader of the House that we should not be negligent in framing the Constitution earlier. This report is, however, a part of the Constitution and while supporting it I congratulate both the Sheri-i-Kashmir and Pandit Ji.

***Kh. Ghulam Qadir Massalah:** Mr. President. The report of the Drafting Committee which has been placed before the House by Hon'ble M. A. Beg is under our consideration. Sir, this is not a creation of very recent origin. In fact this is the fruit, shadow and blossom of that tree which has been nursed by the National Conference under the guidance of its beloved leader. The programme was put before the country by the National Conference and is known by the name of "NEW KASHMIR".

When the National conference observed that autocratic Rule was responsible for the starvation of the masses; that the people were obliged to live a life of hunger and misery that they were forced to be naked on account of the Autocratic Rule, the national Conference made it clear not only to the people of the State but to the whole world that they wanted to end this state of affairs through their "New Kashmir" Programme. It was clearly explained in this programme as to what the "dignity" of the people was in the eyes of the Autocratic Rule who did not even look them as human beings. Therefore, when the National Conference put this great cause before the people not only did the 40 lacs of people welcome it but the democracy loving people and all the great leaders of the world over appreciated the stand and the struggle of our organization. It is an open fact that our plan of "New Kashmir" embodies the secret of the well being of millions of downtrodden and misery stricken peoples; and the leaders of India have sided with us to uphold this cause. When the then Government saw this programme was not only heading towards progress but all the lovers of democracy throughout the world were openly adding to the strength of this movement, the Autocratic Rule tried their best to frustrate the movement

which was so much popular amongst the masses. As a result of this our beloved Leader, who is now the Prime Minister of India, was detained at Uri with the aid of bayonets and spears. Sir, we are today adopting one of the principles embodied in "New Kashmir". So far as this report is concerned it has been prepared with broad mindedness which guarantees stable life to the people of the State and which will prove a torch bearer for the Democracy loving people throughout the world which will enable all the troubled people to lead a happy life.

High sounding titles are suffixed or prefixed with the names of the kings as, Rais-ul-Saltanat, Amir-ul-Mulk, etc. These very things had turned their heads and made them haughty and headstrong. But the designation proposed today for the Head of the State is "Sadar-i-Riyasat" and this Act will finally end the Autocratic Rule.

I support the resolution.

Hakim Habibullah: Sir, I move for the closure of the further discussions as this report has already been discussed sufficiently.

Hon'ble President: The question is that the discussion should be closed.

Note:- The closure motion was unanimously agreed to by the House.

Hon'ble President: Hon'ble Sheikh Mohammad Abdullah.

***Hon'ble Sheikh Mohammad Abdullah:** Sir, the report placed before the House by the Drafting Committee is so exhaustive that it does not require any further elucidation. I would, however, like to draw the attention of the House to the principle, which has always been before us that the people alone have the right to decide the fate of this country (Cheers). They have fought for the last 21 years and we have always endeavored that the last word, in every matter, should remain with the people. The system which was thrust upon us gave all the powers to one person. Section 5 of the Constitution, under which we were being governed, lays down that:-

"Notwithstanding anything contained in this Act, or any other Act, all the powers, Legislative, Executive and Judicial in relation to the State and its Government, are hereby declared to be and to have always been inherent in and possessed and retained by His Highness and nothing contained in this Order or

any other Act shall effect or deemed to have effected the right and prerogative of His Highness to make laws, issue proclamations, orders and ordinances by virtue of this inherent authority”.

This was the law under the provision of which one autocratic person controlled the destiny of 40 lac people of the State. The people of this country have been trying for the last 21 years to get rid of these chains. Hence, the House approved, after great deliberations, the recommendations contained in the report put forward by the Basic Principles Committee in the last session of this constituent Assembly. The House directed the Drafting Committee to present the suitable proposals, in this connection, before it. The proposals put forward now by the Drafting Committee are, as I have already stated, so detailed as not to require any further elucidation. We must, however, keep one fact in view that our fifth was not directed against any particular person, rather was it based on an important principle. We wanted that the power should be transferred to people and that they should utilize them in the manner considers fit by them, without being subjected to any pressure. The speeches made by the Hon'ble Members today, in this connection indicate their wish that the election of the head of the State should have taken place during the present session. I respect the sentiments which has prompted these Hon'ble Members. But there are set courses to be followed in the legal and constitutional path, the progress is delayed but it remains free of bloodshed. There are only two ways of making progress one being by revolution and the other by evolution. Revolutionary method is behead the Raja or Maharaja who is to be removed and enthrone somebody else in his place. No speech was made and no recourse was made to constitutional formalities. But, since our country has adopted the constitutional path, we have to obey certain constitutional proprieties. This is the constitutional path. We are following the path of evolution not of revolution. Everything has its good and bad points. Evolutionary process is always the better one because although it takes lesser time by the other process but it causes bloodshed, misery to people and require great sacrifices. The following of evolutionary path by our country necessitated the formation of constituent Assembly so that the

representatives of the different parts of the country, elected on the basis of adult franchise, should gather together and form various committees to frame the different rules and regulations and that Assembly should after full discussion, either accept or reject. The reports presented in this connection by these Committees after due deliberations.

We were struggling against the autocracy and this struggle came to an end on the very day that this Assembly came into being. With the formation of the Assembly all the powers till then retained by the person symbolizing autocracy, were transferred by an amendment to the representatives of this country. We are not wrong in saying that this House is a Sovereign body because this House has full powers to frame all laws regarding this country. We are asked as to what objection could we have in the continuation of the ruler when he had become a constitutional one and further when all that was objectionable to us had been removed and the powers transferred to the people. I would submit in this connection that the greatest difficulty experienced was about the hereditaryness. We do not want the public to be deprived of their right forever. It should be left to the people to elect its Head in the manner considered suitable by them and whensoever they like. We did not want the rulership to be continued in hereditary manner. Son following the father and followed by his own son. The drawback in this system was that the ruler used to think that whatever evil acts he might commit, he cannot be removed from the office of the Headship; and since they believed firmly in this, they used to met out a very cruel treatment to their subjects clearly showing that they did not feel any responsibility for their subjects. But on the contrary, the constitutional Head is aware that his retaining, or losing, the headship depends on the will of the people. Since he knows that he cannot, continue in the same position in the event of causing displeasure to the public, so he will try his utmost to work on the right lines and would share the pleasure and sorrows of his subjects. If the ruler would not have any sense of responsibility in case of continuance of hereditaryness. Keeping all this in view, we wanted to abolish the hereditary rulership. The House, after approving the

recommendations of the Basic Principles Committee, formed a Drafting Committee, whose proposals are before the House today, this being the second step taken in this connection. I am detailing all this in reply to those who have asked as to why could not be held the election of the Ahead of the State in the present session. There was another difficulty in this connection besides those related before the House by the Hon'ble Mr. Beg, the Chairman of Drafting Committee. It is not a unilateral matter, rather is a bilateral matter. Since the State is a part of the Indian Union, hence some suitable changes and modifications were required in it there were various institutions of this kind in India besides the one present here. Now when we have become companions in this struggle we must bear in mind our responsibility so that any step taken by us may not cause any embarrassment to our companions, because we depend mostly on this. It was necessary to hold consultations in this matter and the proposal which was put before the House after consultations is being discussed today. Proposal is before us and we will adopt it after some amendments. In this proposal the House would lay down the procedure for appointment of head of the State whether you call it Governor, Sadar, president, Sadai-i-Ala Ruler, Mehtar or Head of the State whatever you like.

What should he be called? We had to think over it. Whether he should be designated as Sultan or Sadar-i-Ala. The recommendation made by the Drafting committee in this connection is an apt one. We deliberated that, if we call him Rajparamukh or Sardar or Governor, it brings to our mind the same old autocratic system. The same is true in the case of Sardar-i-Ala because this also gives an indication of 'rulership'. But although it caused quite a great trouble in the selection of this name, the designation selected by use is quite a good one.

Regarding the election of the new Head of the State, it is given in the proposal that the election would be made by the Legislature of this place. I would like to point out, in this connection, that everybody is elected in the whole of executive setup our Prime Minister as well as others. Now since both the Prime Minister and the Head of the State would be elected by direct vote, there is a

danger of the occurrence of a clash between the two, because both of them can claim that they enjoy the confidence of the people.

Hon'ble President: This issue is premature at this stage.

***Hon'ble Sheikh Mohamamd Abdullah:** Since the Legislature is mentioned in the resolution. I consider it necessary to clarify this point. We have submitted in this proposal the Legislature would elect the Head of the State. There is a separate process for election of Prime Minister who is elected from the Legislative Assembly which has come into being on the basis of adult franchise. But according to the recommendation of the Drafting Committee. The Legislature would elect the President. Therefore in the case, I would like to tell those friends of mine who have raised the point as to why is not Head of the State elected so far and further want to know as to when would he be elected. That is a constitutional process and it would take some time. Besides, after the passing of this resolution by the Assembly. It would be necessary to incorporate these consequential changes in the Indian Constitution. These changes cannot be incorporated till this House approves these proposals. On their approval by this House the Legislature would meet after a sufficient interval to enable the Members to decide about the persons whose name they want to propose. I would like to make it clear that the autocratic system of Government came to an end on the very day when this House approved the recommendations of the Basic Principles Committee. No power on this earth can change the decision taken by this Sovereign House. It would naturally take some days to give a practical shape to these decisions since we are moving constitutionally and taken one step after another to complete this framework. Some of our friends would like to know the uses of the abolition of Hereditary Rulership and whether it would benefit the people at large and reduce their miseries and hardships. I would like to tell them that I would not make nor am I prepared to make any commitment to the people. They must realize that his country can achieve progress through their sacrifices only. Centuries of bondage have ruined this country and we have to reconstruct it. It is our combined duty to endeavor towards that end and only then can this country become prosperous. But it is not

possible to achieve immediate results because it is impossible that the people should become prosperous overnight after the abolition of Hereditary Rulership. I would like to point out to these friends that the millions of rupees which were used by the members of the autocratic Government for their own benefit would now be utilized for the betterment of our country leading to the reconstruction of this ruined country. The country would become prosperous. If the people work hard and the coming generations would be benefited.

Another Hon'ble member expressed his opinion to fill by election not only the posts of the Head of the State but also all those posts whose pays are more than Rs.100/-. I expect the Hon'ble Members of this House to give expression to those views only which can be given a practical shape. If they want the recruitment to Government services to be made by election. It would certainly be done provided they can suggest a suitable and practicable procedure for the same.

Some of our friends have pointed out that it is given in the "Nava Kashmir" that all the appointments to executive organs should be filled by election. Sir, "Naya Kashmir" is repeatedly referred to in this House. I in the capacity of a member of this House, would request the Hon'ble Members to point out to us the procedure for filling up to these posts by election. In case they consider it to be practicable that all the posts not only those fetching Rs.100/- or more rather all others too whose pay range from Rs.1/- upward to Rs.1000/- or more should be filled up by popular vote. They should show us the constitutional method to do it. All this rests with you, because it is only the Hon'ble Members who have to devise and frame the constitution of the State. I would like to ask them that, while referring to "Naya Kashmir", they must bear in mind that it contains the broad outlines only. At that time we did not frame "Naya Kashmir" as the constitution. What we wanted to suggest at that time were the broad principles to be followed by the National Conference. In case it came to power to take the country forward on the road of progress. But, the conditions have changed now. We named about a dozen ministers at that time, including Foreign Affairs, Defence Minister and Railway Minister while now we must take into consideration the fact that having

acceded to India in the subjects concerned. We naturally cannot have these portfolios here in the State. It is obviously impossible to a Defence Minister. It is clear that the then circumstances cannot be compared with those of the present times because the proposal at that time was to have Kashmir as an independent State. In this connection, I clearly pointed out in my inaugural address the benefits and drawbacks of remaining independent. We were passing then through an agitational period and did not feel Governmental responsibility. But now, we must pay due attention to the present circumstances. For example, somebody pointed out that our judiciary should be an elected one. I quite agree with it. But in the statement given by me, there is an issue regarding Supreme Court which is yet under consideration. We have to see as to what should come under the jurisdiction of the Supreme Court of India. It is up to you to agree with it or amend it any way, and certainly, the House would support the deserving amendments. I would like to point out to those Hon'ble Members who want that all the posts should be elective that the time is not ripe as yet for these considerations. Not taking more time of the House. I hope that the report laid before the House would be adopted unanimously so that the further steps in this connection may be taken without any delay.

***Hon'ble M. A. Beg:** Mr. President, I feel that the House I am addressing is tired after the day's work and therefore, I would not inflict a long speech. I only want to remove certain misunderstandings about an issue. An Hon'ble Member probably Major Piar Singh has expressed that we would send the name of the proposed candidates to the Union President, and that the election here take place after the receipt of the President's approval thereto. I am sure that there is no indication of the procedure in my resolution. I have clearly stated that the Legislative Assembly would fix the last date for the receipt of applications and that all MLA's are authorized to propose 3 O'clock or such time as may be fixed in this behalf, the name of any person who is State Subject. The election would be held in the prescribed manner after nomination and as the result thereof the recommendation would be made to the Union President that such and such person has been elected by the Legislatures Head of the State. So there is no

question of submitting the proposed name to the President because all necessary powers in this matter have been given to the Legislative Assembly.

The Second point that was raised is about the necessity of this procedure. As I explained yesterday that having acceded to India there is a legal link between Kashmir and India which is explained in Art370 of the Indian Constitution. This can be compared to a link of chain joining is different parts. I have nothing more to say about it as detailed speeches have already been delivered on this point. I would, however, like to repudiate a statement that the Maharaja served as a binding link between the different units of the State, and say that this is no more or less than a propaganda stunt on the part of enemy. Since, unfortunately, some simple minded friends have been led away by it. The National Conference must at once take some action. The Maharaja about whom it is being said that he served as a connecting link between different part of the State is none else than the person who helped the English to retain their hold on India for 150 years and further who splited the 40 lacs of this State for centuries.

It is possible that this old system like the English who divided India on the eve of their departure might give impetus to this storm. As is known to all, the English created such circumstances at the last movement which that the dying system may try to bring about the partition of the State. I do not deny the possibilities of such happening. The best counter-move in this connection lies in the unity of the people of this State i.e. residents of the whole of Jammu, Kashmir and Ladakh should collectively deliver such a blow to these efforts of his lying at death bed order that they are finished forever saving the country from further miseries. The proposal presented by me has received support from every quarter and I would therefore appeal for its unanimous adoption.

Hon'ble President: I would place before the House the resolution alongwith the amendments admitted by the House and accepted by the Mover. The first amendment moved by Mr. Mubarik Shah is:-

- (A) "that sub-clause (2), clause 1 may be deleted and the figure (1) within the brackets be omitted."

(B) “that in sub-clause (b) of clause 1 so amended the words on the data of filing the nomination paper be added after the words 21 years”.

The second amendment accepted by the move comes from Hakim Habibullah, and reads:-

“that in sub-clause (i) of para 1 of the resolution appended to the report of the Drafting Committee for the words “President of Union” the words “President of India” may be substituted.

(The motion was adopted)

The amendments having been disposed of, I would now put the Resolution as amended by the House to the vote of the Assembly.

Note:- The resolution as amended by the House was put to the House and adopted unanimously amidst prolonged cheers.

Hon’ble President: This close the business of the day and with it, the session also comes to an end. Now with our permission, I declare the House adjourned sine-die.

Note:- The House adjourned sine-die.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

Fifth Session.

Srinagar, 10th November, 1952

The Constituent Assembly met in the Assembly Chamber, Srinagar at two of the clock.

Mr. President: (Hon'ble Mr. G. M. Sadiq) in the Chair;

Hon'ble President: Hon'ble M. A. Beg.

***Hon'ble M. A. Beg:** Mr. President, the Constituent Assembly passed a Resolution on the 21st of August, 1952, in pursuance of which the report of a committee of the constituent Assembly wherein proposal regarding future Head of this State were made was adopted. According to this resolution the Constituent Assembly resolved that the future Head of the State shall be elected and that his term of office will be five years. Rules regulating his election and details thereof were passed by the Assembly. The future Head of the State will henceforth be called the "Sadar-i-Riyasat" instead of Maharaja and his appointment was to be made by election. At present the Jammu and Kashmir Constitution Act is in force in this State and still the words "His Highness the Maharaja of Jammu and Kashmir" are there as also his powers. Till the Constituent Assembly frames a new Constitution the Jammu and Kashmir Constitution Act will continue to be in force this country. It is therefore, expedient to amend the Jammu and Kashmir Constitution Act in pursuance of the Resolution dated the 21st August, 1952. for this purpose I ask for leave to introduce the Bill to amend the Jammu and Kashmir constitution Act and move that it be taken into consideration. (Note: The bill be found at the end as Appendix A). The sections of my bill are brief. The first section is that the future Head of the State will henceforth be called the "Sadar-i-Riyasat" and the present section 4 which reads as under have been repealed.

The territories for the time being vested to His Highness are Governed by and in the name of His Highness and all rights authority and jurisdiction which appertain of are incidental to the Government of such territories are exercisable by High Highness on the advice of the Council except in so far as may be provided by or under this Act etc. According to the Rule in force all these territories included in the Jammu and Kashmir State all powers, jurisdiction etc. relating thereto are vested in the Maharaja. My amendment is that all these powers prerogative. Privileges and jurisdiction be vested in the "Sadar-i-Riyasat" exercisable in Consultation with the Council of Ministers. This amendment is in consonance with the Resolution of 21st August., 1952. My amendment that all those powers which the Sadar-i-Riyasat will exercise on the advice of Council of Ministers will be subject to a condition or two. The first condition is.....

Hon'ble President: The Hon'ble Member will please move his amendment for which he has sought permission.

Hon'ble M. A. Beg: Sir, I want to introduce my Bill first.

Hon'ble S. L. Safar: While seconding it, I beg to submit that this Bill is of great importance and as such it is essential that it is passed immediately. I would, therefore, request the Hon'ble Member to pass it without delay.

Hon'ble President: The question is that leave to introduce the Bill further to amend the Jammu and Kashmir Constitution Act be granted.

☛ **Note:- The House agreed.**

***Hon'ble M. A. Beg:** Now, I move that this Bill be taken into consideration. Pursuant to the Resolution dated 21st August, 1952, some amendments in the Jammu and Kashmir Constitution Act were necessitated. In regard to amendment of section 4, I may submit that all powers vested in the Maharaja Bahadur under the existing Act be exercised by the Sadar-i-Riyasat on the advice of the Council of Ministers. Two conditions have been imposed in this behalf. The first is that all these powers will be exercisable subject to the Constitution. Under sections 45 and 46 relating to Finance, the Legislature has been authorized to accord or withhold sanction to any expenditure and no expenditure can be incurred without the sanction of the Legislature. Thus

whatever is expended will be subject to sanction of the Legislature. After accession to India, under list 1, Schedule 7, the Indian Constitution in regard to the terms in respect of which accession to India has been effected the Indian Parliament is authorized to make legislation for the Jammu and Kashmir State. Thus with regard to the item that we have acceded in the Centre, the Indian Parliament or the President of India can in exercise of those powers make legislation for our State; and the "Sadar-i-Riyasat" shall have to exercise his powers subject to this condition. Both the conditions are necessary. As we have acceded to India in respect of defence, communications and external affairs, the center is authorized to make suitable legislation in respect thereof under Scheduled 3, section 4, the procedure for election of the Sadar-i-Riyasat has been defined which is in conformity with the Resolution dated 21st August, 1952. Now that the House has passed this resolution, we have proposed an amendment to the effect that the words "Maharaja" wherever occurring in the Constitution Act be substituted by the words "Sadar-i-Riyasat" under Section 45 & 46, this House has been authorized to pass the financial grants this an amendment of which this House will take advantage from time to time. Another thing of importance relates to the Royal prerogative. Under the old Constitution Act, the Maharaja could repeal any law, but now under this Constitution the Royal Prerogative will cease. Besides, taxes and Revenues were collected from the people of the State in the name of the Maharaja under the former Constitution. It is obvious that according to the Resolution of 21st August, 1952 this theory will not stand now and henceforth all taxes and revenues will be collected in the name of Government and credited in the name of the State. As the question of His Highness is no longer there hence these reformative amendments were necessary to be made in accordance with the Resolution dated 21st August, 1952. After the election of the 'Sadar-i-Riyasat' it is essential to make these amendments in the Constitution. Keeping in view all these things this Bill has been placed before the House. I wish to remind the House here that the Resolution of 21st August envisages that under Article 2\370 under the sub-heading "explanation" recognition of the Sadar-i-Riyasat it is essential that Article

370 is suitable amended as His Highness and Yuvaraj were recognized by the Union President under Article 370. Similarly Union President may accord his recognition to the 'Sadar-i-Riyasat' as required under Article 370. In view of this first step to be taken is amendment of the constitution and making provision therein for the 'Sadar-i-Riyasat' in place of 'His Highness' and when powers of the Sadar-i-Riyasat are provided in the Constitution the second step to be taken will be his election which will be made by this House; and under Article 370, the Union President will accord his recognition to it, and from the date the Union President accords his recognition the Sadar-i-Riyasat will commence to function. It is, therefore, essential that we proceed to accomplish the different stages in the following order:-

1. Passing of the Bill presented to this House;
2. election of the 'Sadar-i-Riyasat'; and
3. Recognition of the 'Sadar-i-Riyasat' by the Union President as required under Article 370; respectively.

Our country, I may submit here, is anxiously awaiting the enforcement of the Resolution of 21st August, 1952. We have placed this bill before the House. Keeping in view all these things, I would, therefore, request that this amendment Bill be taken into consideration. If postponement of further action or discussion there is necessitated due to one reason or the other, this may be done till the day after tomorrow. Election of the Sadar-i-Riyasat will also taken place day after tomorrow. So after the Consideration Motion other Business is adjourned till that day. The main resolution and all the amendments concerning it are before the House now and the discussion may be resumed.

Mr. Mir Qasim: Sir, we have the speech of the leader of the house before us, which he made in the form of a statement.

Mr. Assadullah Mir : Point of order Sir. I am afraid that if the Hon'ble President allows a member, who has not put in an amendment, to speak first, that will create a precedent that Hon'ble mover of the amendment may not get a chance to speak so that the House may come to know what the amendment is and what

his views are. The Hon'ble member who wants to oppose the amendment may do so after that.

Hon'ble the President: As far as the Hon'ble members who have submitted amendments are concerned they will also be given time to speak. Here we are having a general discussion on the amendments and the members who have not submitted any amendments are also entitled to speak.

Hon'ble S. M. Abdullah : Sir, I will request you that if the Hon'ble members who have moved the amendments are allowed to speak first it will be convenient for other members to make their speeches after hearing the arguments of the movers. If you agree with it, you can direct accordingly.

Hon'ble the President: It is no business of the Chair to order member to make a speech. Those who have moved the amendments have not stood up to speak. Mr. Mir. Qasim got up and therefore he can speak. If the members who have moved the amendments want to speak, they can do so after he has finished his speech.

***Mr. Mir Qasim :** Sir, as far as the statement made by the leader of the House in connection with the agreement arrived at between the Government of India and ourselves is concerned, six of its pages are devoted to the historic background of the accession of our State to India. Why Pakistan invaded Kashmir and what intrigues led to the perfidious attack launched against us cover six pages of the statement. In my opinion no one is ignorant of these facts. It is therefore, unnecessary to make any comment on these six pages, which are in fact a reiteration of the historic back-ground. My friend Hon'ble Mubarik Shah has explained these points in detail. In this connection I would also like to, submit a few words. The historic background of our accession to India have been reiterated. But this needs to be emphasized that our accession is that of a rising nation acceding to and her rising nation. The people of the State have a specific objective before them and we think that this can be realized only with the help of the Indian people. Had we acceded to Pakistan, it would not only have been difficult to achieve this objective but many a hurdle would have been put in our way.

We want to achieve the objective laid down in the programme of New Kashmir. It is therefore that we want to accede to India. We the people of Kashmir want to establish a social system based on political, economic and social equality; where no particular community or religion has any-advantageous position, and where no particular group of people can exploit others because of colour or creed. We assessed the political consciousness of the people's of India and Pakistan and came to the conclusion that whereas the people of India were politically more conscious the people of Pakistan were comparatively background. It is but natural that one who is fighting the freedom's battle will join hands with a fellow fighter. We found that the present rulers of Pakistan are a reactionary lot, who will suppress their people for many years to come. On the contrary the people of India are marching ahead and are shaping their socio-economic future according to their own choice. They will thus prove our comrades in arms. The people of India did not only in 1931 extend their hand of friendship to us but also supported us during all the critical years of our freedom struggle. The programme of "New Kashmir" was hailed by them. It is not a mere booklet, but the embodiment of the desires and sentiments of our leadership. The programme visualized by our leadership aims at doing away with all types of exploitation. So this is the basis of our accession to India. After all what is accession ? By accession we do not mean to do away with the Geographical boundaries of two countries. Ours is a Constitutional accession and not an imaginary one. This accession does not imply the literal accession of the land of Jammu and Kashmir to India but it implies in clear and unequivocal terms the accession of the people of the State with the people of India. There is no dispute as to the interpretation amongst the people of India and the people of Kashmir. Accession is not an end but it is a means to an end. What are our ideals? To do away with all types of exploitation and to establish a social order based on social economic and political equality. Establishing of such a social order presupposes ending of usury, black market and social privileges etc. But we must not forget the fact that interested elements will try to annual our accession by raising bogey of race or colour. But as I have just now submitted that we have acceded to India

with definite purpose i. e. exploitation in whatever form it be to be done away with. When our representatives joined hands with the representatives of India, at that very moment our accession was completed. Now some complications have been created. Who have created these complications? The Jagirdars and the money lenders. But Kashmir is part of India. Kashmir has acceded to India to achieve some purpose and that purpose is "New Kashmir". We shall see that the system envisaged in New Kashmir is fully established. An opinion is expressed that since the matter is before the United Nations Organization therefore, this accession will not last. But as far as legal matters are concerned the accession was complete when the ruler of the State acceded to India. At that time the people of this place did not reject the accession. Therefore the accession is complete in fact and law. So under these conditions, to doubt that this accession will be annulled is nothing but blasphemy of the reaction-Aries. This accession needed ratification by the people. It was, therefore, that it was left to the people either to ratify the accession or to reject it. It may be asked that if we have acceded as regards three subjects then why these talks were at all held. The statement has cleared all such doubts. When we decided to do away with the hereditary ruler ship, our friends in India thought that they will have to amend certain provisions of Indian Constitution which are connected with Rajpurmukhs. So they wanted to have our opinion. While discussions were going on some more matters cropped up. For example if Kashmir can become an Indian citizen an Indian can also become a citizen of Kashmir and can acquire property here. So all these matters were discussed. The statement of the leader of the House was made it clear that we have abolished Constitutional monarchy. Naturally adjustments were to be made in the Indian Constitution. In course of time, if any constitutional difficulties arise which come of the way of strengthening our bonds with India, those difficulties will have to be removed and we can make the necessary changes in the Indian Constitution. Because section 370 of the Indian Constitution can be amended on the recommendations of this Assembly, all her subjects came under the purview of the Residuary Powers of this House. We can settle all the issues except Defence. Foreign sections and Communications,

even the citizenship is within our Residuary Powers. Even Fundamental rights and Supreme Court are our Residuary Powers. As the leader of the House has said also that it is the reiteration of the Principle that sovereignty vests with the people. I follow from it that it is the people of Kashmir who have handed over the three subjects viz. Defence, Foreign relations and Communications to the centre so that the Indian Parliament could frame laws and regulations regarding these. Laws pertaining to the rest of the subjects will be framed by this Assembly. Therefore the reference made to the Residuary Powers is nothing but the reiteration of this principle.

It is said that the accession of Kashmir with India should be as far the statement is concerned there can be no denying the fact but it should not be dynamic in the sense that we give up principles. On the contrary accession should help us in achieving ideals and preserving our autonomy except of course in the objects we handed over to India. Our Assembly is competent to make laws and decide the issues, if any, since we are enjoying complete autonomy. We can even frame and amend our constitution. In this connection we have application order of 1950 of the Indian Constitution according to this order all these powers which do not vest in the State. We want to develop Kashmir according to the programme of New Kashmir. Some people say that it is just possible that in future Kashmir may also become a part of India like any other State and get merged with it. In that case that our internal autonomy will be reduced to naught and residuary powers will be snatched from us. In this connection I will submit that the thinking of such people is morbid. These are the vested interests who create such misunderstandings. The representatives of the Government of India have not kept any time limit for these residuary powers. Therefore there should be room for such doubts. We have acceded to India with a definite objective and I am sure the objective will be achieved. Some interested persons are creating misgivings as regards the autonomy and say that Kashmir has been granted autonomy simply to benefit its Muslim population but this is a baseless allegation. If the people from outside are not given the right of acquiring property in the State and getting recruited to States services then it were not the Muslims of this place

alone who will get benefited but other communities will also get benefited. We cannot bear exploitation of any kind. All the communities will be provided equal facilities, in the requirement to that services. The social system which will be set up according to the programme of New Kashmir will provide equal opportunities of development to all the citizens of State be they Kashmiris, Ladakhies or Dogras. So we have not as yet got rid of the internal exploiters and how can we face external exploiters? The people of this land acceded to India with the hope that the people of India will help them in their struggle against exploitation. We will not allow the reactionaries of India to join hands with the reactionaries of Kashmir so that they might forge a common front against the people. It is therefore that the citizenship rights have been preserved. The oppressed masses of Kashmir have joined their hands with the oppressed masses of India. No power on earth can drive a wedge between them. It is useless to say anything until a final decision is taken as regards the fundamental rights. However fundamental rights belong to basic rights. As is obvious from the statement of the leader of the House that in India fundamental rights of the nature of Association, freedom of speech etc. have been granted. As far as these fundamental rights are concerned, they are to be found almost everywhere in the world. The wording of these rights is the same in Russia as in America. But the addition of the words 'and' or 'if' makes considerable difference in its content. You can grant or amend these rights. As far as the people of India are concerned they are of the opinion that there should be no opposition in building a society on the basis of "New Kashmir". It is just possible that they may even own our programme. The Supreme Court is not a dangerous thing. The rights you will grant to your citizen cannot be denied by the powers who will step into our shoes. Because the Supreme Court stands as guarantee for these rights. And about the Supreme Court itself we have not yet taken any decision as is obvious from the statement of the Leader of the House, wherein it has been stated "that we should have time to consider it further". Since we have not taken any final decision as regards the question, therefore we cannot express any final opinion. As far as the National Flag is concerned it commands the same respect from us as it does from any

other citizen of India. All the citizens of India be they from Madras or Kashmir respect it equally. I do not want to discuss the details but only want to emphasize the three points for which we have acceded to India. In this connection all of you will agree with me that we have acceded to India with a definite purpose of achieving our objective. This has been accepted by the Indian Constitution and the Prime Minister of India also, it is on the acceptance of this principle by the leaders of India that we are framing our constitution. We will restrict the activities of the exploiters till a social system based on "New Kashmir" is also established in India. There is no doubt that the people of India are marching towards that very ideal. The people of India are waging a struggle for the aforesaid purpose and that is the only guarantee for the preservation of our freedom. I will again repeat that we have acceded to India with a definite purpose unless this purpose is achieved we will stick to it.

Mr. Assad-ullah Mir :

Mr. President : The statement made by the leader of the House two days back is under discussion at this time. As the leaders of Government of India have in their talks with Representatives of our State accepted our accession as permanent and constitutionally valid. I support the report minus the part about which I have moved an amendment. It gives me great pleasure to state that the accession we have made is on solid foundations. Ever since the beginning of our freedom struggle we have made many a sacrifice under the banner of the National Conference. The Flag of the Indian National movement was hoisting along with our flag. As my friend Mr. Mir Qasim has said that ours is an accession of one rising nation with another rising nation. This is but natural, because only a living nation can enter into an agreement with another living nation. The progress of India and Kashmir is interdependent. The existence of a nation is incomprehensible without land. Hence the land and nation are interdependent things. Why and how does one nation join hands with the other? On what basis should a nation establish relations with the other? In these cases one has to see that the particular nation strives to help the other nation. The amendment I have proposed before the House is precisely meant for this very purpose. Where a question of Nation will crop up there the question of the rights of citizenship will also arise. You want to have an agreement among the nations. But what I am alluding to is the Land and the Nation. For example let me take the question of 40 Lakhs of people of the State. Legally and constitutionally the question of rights of citizenship will come first and the fundamental rights will come later. We will consider the aspect of the statement of the Leader of the House. Before I quote the statement I would like to express the doubts which have arisen in my mind as well as in the minds of the people. As my friend Mr. Mir Qasim has said that the reactionaries be they Hindus or Muslims or of India or of Kashmir are trying to interpret these decisions in a way which creates doubts and misgivings among the people. Even the educated people are also having these doubts. They are to some extent justified in having such doubts. I beg to submit sir, that man is born free and has got some fundamental rights.

And Sir, this basic point is to be taken into consideration. Being the inhabitants of land the people of Kashmir have some rights and obligations.

They are the sons of the soil.

He has been given rights to till land because if the rights are not granted it will mean anarchy. The State guarantees rights of citizenship and fundamental rights to its citizens. If these rights are guaranteed constitutionally and legally, we can say that the State is a democratic one. And where such laws have not been framed the anarchy is sure to spread. It is therefore necessary that we define the fundamental rights and the rights of citizenship. It is therefore that my subject is land and the nation. I will prove my contention and request the House to accept the amendment.

What is citizenship? And which are the rights of citizenship. I will submit that it is the people of Kashmir who have the right to live in Kashmir and it is these people who are entitled to the fundamental rights and rights of citizenship of the State. In India similar rights have been conferred upon people and in Pakistan when they will frame their constitution they will also grant similar rights to the people. In Russia, England and America the rights of citizenship have been granted to those who were their citizens from times immemorial. I want to cite facts from history to prove my formula of what the rights of citizenship and fundamental rights should be. In this connection my submission is that if we do not provide such definition of the rights in our constitution, our political structure will be such which will resemble to a dead body. The programme of New Kashmir will also be reduced to naught. Sir, I will submit that the inhabitant of this land are the citizens of our State. I admit that citizenship is based on two factors. The first type of citizens are those who are the original inhabitants of that particular country. They have naturally the rights of citizenship of the country. The other category of citizenship is framed by the Government. A regular struggle is being waged to give shape to the rights. Because all the Governments, be it Government of America or Government of Russia lay down the conditions under which they can acquire the rights of citizenship. Similarly an inhabitant of Kashmir whose forefathers have been living in this land from times immemorial

and the person who has been granted rights of citizenship by the legislature are both citizen of the State i.e. one has acquired the rights of citizenship by virtue of his being the original inhabitant of the country and the other acquiring the rights of citizenship through State legislature. Therefore, there are two categories of citizenship. One is natural and the other is constitutional. I would like to submit through you before the House that at places I may create confusion (laughter) but I will say with confidence that it is an intricate and legal point. I am not making a sentimental speech, on the contrary it is a constitutional one. These very things became the basis of many a feud in the world. Therefore you must listen to my speech with patience. The fate of forty lakhs of people depends on the discussion of this issue. It is therefore, I am putting before you its pros and cons, so that the House may be able to take a correct decision. Sir, I was submitting that these are two types of citizenships. The one is natural citizenship and the other is constitutional citizenship. Both the types of citizenship came under the scope of fundamental rights. Without these rights a citizen cannot live. For example the fundamental rights have been defined in the constitution of India. There will be no discrimination based on the grounds of religion, race, caste, sex or place of birth".

Many philosophers have compared these fundamental rights to border rocks. While explaining these rights they have framed six categories. One of the rights is right of equality. In this we have to see that the principles of one's superiority by the birth is not accepted by the people now. By birth all men are equal.

Hon'ble the President: Order. The question before the House is not what the fundamental rights are? And what are not? The question is whether the definition of the fundamental rights which is before the House should be incorporated in the Constitution of Kashmir or not. Therefore while discussing the issue one need not go into details.

Mr. Assad Ullah Mir : Sir, unless the issue is explained, I cannot draw the attention of the House towards, it.

Mr. Harbans Singh Azad : Point of order Sir. My submission is that as far as the definition of fundamental rights is concerned a committee has already been set

up which will discuss these. The Hon'ble member wants to pre-judge the committee, which in my opinion is not proper. Besides, for such things he will have to seek permission first. It is better that a general discussion is held on it.

Mr. Mubarak Shah:- I think a little confusion has been created is so far as the statement of the Leader of the House is concerned, which says "that the fundamental rights are to be conferred on the residents of Jammu and Kashmir State. Therefore, I think that was the motive.

Hon'ble the President : In my opinion let us allow the mover to speak on the subject.

Mr. Assad-ullah Mir : Sir, I wanted to draw the attention of the Hon'ble members to the statement of the Leader of the House and I wanted to explain how the conception of the fundamental rights arose and what agency give shape to these rights, I wanted to explain it. Sir, with your permission I will submit that right of equality includes freedom of religion as well. Equality demands that we do not differentiate between a man and a man on the basis of birth. Both of them must have same rights. So I have defined this. The second is the right of freedom, freedom of speech or expression of opinion, freedom of association and union and movement. These are the rights of freedom and there is a right of freedom to religion, i. e. every citizen can fess a religion which he choose. Similarly the right of constitutional order gives us the right to appeal if our rights are infringed. One of the basic rights is the right to acquire property. Although this right has been granted everywhere yet while granting these rights we have to take into consideration the programme of New Kashmir and grant the fundamental rights accordingly. The fundamental rights we have visualized for ourselves are given in the booklet, "New Kashmir". We have rendered many sacrifices for these. If you remove the restriction on acquiring of property for example the restriction of owing land beyond 182 kanals is removed there is very danger that exploring elements may again be created. It is because of this that such a limit has been imposed. The fundamental rights of citizenship are being framed to safeguard the society. We want to shape our fundamental rights in a way as will not hamper our

economic, social or cultural progress and no room is left for any kind of exploitation.

Sir, what were our objects and aspirations when we decided to accede to India. In this connection I will submit that ever since the beginning of our freedom movement we have always felt that the ideals we have set before ourselves and for which we have made many sacrifices cannot be achieved in a social system which is at present prevalent in Pakistan. The programme of New Kashmir can only be achieved in India, because it has a secular basis. The secularism is one of the most prominent features of "New Kashmir". The social system which we want to establish will not be based on religion but on tolerance i.e. ours will be a secular democratic system. These ideals find no place in the body politic of Pakistan. I would like to make one more submission. All of you must be remembering how the attack was launched on Kashmir and with what intentions we acceded to India. At that time we declared that Pakistan not only wants to attack us but also wants to deprive us of our ideals. It is therefore that we acceded to India because the political system there is based on secularism. The basis on which we acceded to India is stated in section 370 of the Indian Constitution. The Leaders of the Government of India themselves accept that Kashmir's accession is of special nature and it has also been granted special position. We have acceded to India as regards three subjects and have empowered the central authorities to frame laws etc. for these three subjects only. The rest of the powers rest with us. As regards these the House is a sovereign body.

Note :—At this stage the clock struck one and the House adjourned for lunch.

AFTER LUNCH

Mr. Assad Ullah Mir :— Sir, I was submitting that it is necessary to have a constitution for a country but it cannot be achieved unless the fundamental rights are first defined. Two kinds of doubts have arisen due to the statement of the Leader of the House. With your permission I would like to draw the attention of

the Leader of the House towards these and request him that he may remove these. It is stated in the third line of the fundamental rights of the statement:—

"It was agreed, however, that the fundamental rights which are contained in the Constitution of India could not be conferred on residence of the Jammu and Kashmir State in their entirety taking into account social and political character of our movement as enunciated in the New Kashmir plan".

Sir, we find the word "confer" in this passage. This gives rise to the idea that whatever be against the freedom of the people be it inside or outside of the country is not correct. He has time and again repeated that he wants autonomy for Kashmir. If fundamental rights are not given in constitution of a country it is no constitution but a document. It will resemble a dead body. This statement does not clear this misunderstanding. Many such statements have been made in the Indian Parliament. I would like to draw the attention of the House to the speech of Sir Gopalla Swami Ayyanger which he made in the Council of States in connection with the Kashmir debate. In his reply he said :—

As regards fundamental rights, generally speaking the fundamental rights in the Indian Constitution would be applicable to Kashmir. But there were certain things peculiar to Kashmir which would require exceptions or modification to be made in the actual statement of fundamental rights in some article of the constitution.

Sir, two points emanate from this. Firstly the fundamental rights of the Indian Constitution will be applied to the people of the State. Secondly they accept that due to the peculiar, social and cultural conditions of Kashmir they will amend certain provisions of their constitution. They will modify those of our revolutionary laws, which we passed during the last few months. But I start from the premise that the people of Kashmir must themselves frame their constitution. This Assembly came into being because of the section 370 of the Indian Constitution and it was because of the section that we enacted such laws as were necessary for our society. Now it is imperative on our part that we define the fundamental rights of our citizens. Since we have acceded to India we will

have to modify our citizenship right so that there is no conflict between the constitution of India and our fundamental rights. The constitution which we will frame will be applied to the people of the State. What I mean to say is that it is we who have to frame our constitution. We will define our fundamental rights according to the New Kashmir and confer it upon our citizens. There will be both fundamental rights as well as fundamental duties. Thus the misunderstanding has been created by the statement which I have already cited. This statement was made by Mr. Ayyanger on 6th of April 1952 in the Council of States. This statement has given rise to doubts in the minds of our people. They say that the time is the best healer and the time will come when they will integrate us with the Indian Union and thus the internal autonomy of Kashmir can be reduced to naught at any time. Our basic point of view has been that the people of Kashmir get their constitution framed by their elected representatives and the constitution thus framed will be applied to the State. The laws this Assembly will frame will be applicable so to the citizens of State. It will be our judiciary which will interpret and decide the laws. Philosophers and constitutionalists have said that a constitution is nothing but a scrap of paper unless it contains chapters pertaining to the rights of citizenship and fundamental rights. These chapters cannot be deleted from the constitution of a country. Because the sovereignty flows from the people. This House constituted as it is by the elected representatives of the State will frame our constitution. Sir, i would like to make it clear that we have owned the principle that as regards the internal matter we are completely free and have handed over only three subjects i.e. defence, communication and foreign relations to India. We are completely sovereign as regards the rest of the subjects. It follows from this that this House is a sovereign body. Thus this Assembly can frame laws-regarding ail the subjects which belong to us. Naturally it does not mean that we get a chapter on fundamental rights from some constitution and incorporate it into our own constitution. If it is done then it will be the India Parliament which can modify these. If the fundamental rights of India are applied to the people of Kashmir then it will not be our legislature which can modify or repeal them but it will be the Indian Parliament which will have such

rights. So this is the basic difference. If our society thinks that the rights should be repealed because the citizens do not need them, in that case we will have to request the Indian Parliament. It is up-to the Indian Parliament to accept or reject our request. According to the basic principles the House is sovereign, it has all the powers except of course those about defence, foreign relations and communications. As a Legislative Assembly we have to frame laws. With these words I draw the attention of the Leader of the House to explain the sentence. Because the speeches made in the Parliament have created some misunderstanding among the people that by and by Kashmir will merge with India and our autonomy will be reduced to naught. Thus a time will come when Kashmir will become a unit of India like any other part (Cheers).

Mr. Abdul Gani Goni :- Mr. President, the Leader of the House made a statement in the House three days back and the amendment I have submitted to the resolution relates to the Headship of the State. According to clause 2 of the Agreement reached between the Representatives of Government of India and the representatives of the Government of Kashmir the President or **Sadar-i-Riyasat** or by whatever name we may call him can hold office during the pleasure of the President of the Indian Republic. I would request the House that the words "the President of the Indian Union" which are to be found in the most important document be deleted and substituted by the words "'Sadar-i-Alla or President or whatever name we may call him can hold office as long as he commands the confidence of the House". I think that the words used in this statement in connection with the Headship of the State are traditional ones. But as far as these words are concerned, these have created many doubts in the minds of the people. The reactionary and communalist papers have twisted these words and have thus created confusion as regards our plans. As far as my words are concerned these represent the relations we have established with India for the last twenty years. The type of relations we have with India not only been accepted by the Indian Nation Congress but also by the representative Parliament of 40 crores people of India by providing section 370 in the Constitution of India. According to section 370 of the constitution of India the 40

lakhs of people of the State have a right to frame their own constitution. The people of India have accepted our internal autonomy. In the previous session of the Assembly I have explained the subject which belongs to an autonomous unit. I have quoted many a prominent philosopher and historian to the effect that the election of President or Sadar-i-Aila also comes under the scope of autonomy when on the one hand the constitution of India accepts our autonomy as regards the election of our Sadar-i-Aila or President or the appointment of the Judges of the High Court and Cabinet Ministers, not to mention of Administrative Officers, than what necessitated the writing of the words "during the pleasure of the President". I think that our fundamental right which was not accepted at the time of signing of the Instrument of Accession but was also accepted by the Indian Parliament after thorough consideration. Why to-day it has become necessary to get the Sadar-i-Aila appointed by the President of Indian Republic, I think that the Leader of the House has not thrown enough light on this point in his statement. He has not made it clear how we can remove the Sadar-i-Aila whom we are electing with the pleasure of the President of the Indian Republic. Thus not only myself but others also might be misled. As far as the constitution is concerned, I would like to draw your attention towards sub-section 6 section 61 and sub-section C of Section 96 of the Indian Constitution wherein the legislatures have been empowered to remove their Presidents or Speakers from their posts. In sub-section 4 of Section 61 of the Indian Constitution it is laid down".

"If as a result of investigation a resolution is passed by a majority of votes less than two third of the total membership of the House by which a charge was investigated or caused to be investigated declaring that the charge preferred against the president has been sustained such resolution shall have the effect of removing the President from his office as from the date on which the resolution was passed".

When such a provision of removing Sadar-i-Aila has been provided in the Indian Constitution, then I fail to understand why we are deprived of such a privilege. According to the Indian Constitution the Parliament can recall the

President by exercising the right of impeachment. In this connection you can go through sub-section C of the section 94 of the constitution.

A Member working as Speaker or Deputy Speaker of the House of the people.

- (c) may be removed from his office by a resolution of the House of the people passed by majority of all the then members of the House.

Thus not only a provision has been provided for the recall of the President but such a provision has been provided for Speakers and Deputy Speakers also similarly according to section 21 of Jammu and Kashmir Constitution Act, 1966 the Speaker can be removed from the office. Since we have provided a provision in our constitution for the recall of our respectable Speakers, the point may be made clear that wherein is the provision by which we can remove the Sadar-i-Aila. I have got a copy of the Constitution of Tadjik Soviet Republic. I would like to draw your attention to articles 21, 23, 24 and 29 of the said constitution. Particularly let us take article 29 of said constitution. It is stated therein:—

"The Presidium of the Supreme Soviet of the Tadjik S.S.R. is accountable to the Supreme Soviet of the Tadjik S.S.R. for all its activities".

The Presidium the President and the Cabinet Ministers of the Tadjik Soviet Socialist Republic are all elected and all the constitutions of the world support my contention i.e. the Assembly which elects its head has also the right of removing him from his office, the statement made by the leader of the House has motive to say about this point. As far as the hereditary ruler ship is concerned, this is an unanimous decision that this institution will have to go and the revolutionary step which our Government has taken in this direction has been hailed by all the prominent leaders of India.

Hon'ble M. A. Beg : Sir, may I draw your attention to one point. The specific motion before the House is that the Hon'ble member wants to substitute certain words in the agreement pertaining to this point by certain other words i.e. the words "during the pleasure of the President" be deleted and be replaced by the words "as long as he commands the confidence of the Legislature of the State".

The Hon'ble member is going into other details. In the interest of time I would beg of you to ask him to confine himself to the specific motion.

Mr. Abdul Ghani Goni : Under the instructions of Hon'ble M. A. Beg I beg to submit that it is necessary to bring before the House the background of the amendment. Unless the House is made conscious of its powers the amendment will not be accepted. Since the Constitution of India has provided such a provision for the Indian Parliament, I would like to request the Leader of the House to explain the whole matter. I will request the House to give its decision on the amendment after going through its pros and cons.

Mr. Ghulaim Rasool Renzoo : Before I speak in justification of the amendment which is before the House, I shall with your permission, read the section with which the amendment is connected and about which the Leader of the House has referred in his statement. The amendment has been proposed to article 352 of the Indian Constitution. The words of this article are as under:—

(352) "if the president is satisfied that a grave emergency exists whereby the Security of India or of any part of the territory thereof is threatened; whether by war or external aggression or internal disturbance, he may, by proclamation make a declaration to that effect".

(2) A proclamation issued under clause (1):—

- (a) may be revoked by a subsequent Proclamation.
- (b) shall be laid before each House of Parliament.
- (c) shall cease to operate at the expiration of two months unless before the expiration of the period it has been approved by resolutions of both Houses of Parliament.

I have read the relevant portion and I request the Hon'ble members to go through the remaining portion. It is obvious from this section that the President of the Indian Republic can declare a state of emergency. The first thing is that if there is a danger to the security of India or to the security of any part of India then the President of Republic of India can proclaim a state of emergency in whole or any part of India. Besides, if he is satisfied that there is a threat of war

or of external aggression even than he can declare a state of emergency. He can assume all the powers and he can take all powers of country or of any part into his hands. He can even assume financial powers also. As regards financial matters, usually State and the Centre enter into an agreement, but at such a time he can ignore such agreements. In these circumstances the Parliament will also be empowered to enact laws. In the Constitution of India some subjects are known as union subjects and some are called Residuary Subjects under the Residuary Subjects. The units have a right to enact laws. But on the proclamation of state of emergency all the Powers be the Residuary or otherwise get reduced to naught and the President assumes all these powers. The President can suspend all rights of citizenship. In doing so he is not bound to consider the rights of the people. He can instruct the courts not to deliver any judgment regarding the fundamentals rights, in short the President will assume wide powers. Regarding this point, negotiations which our delegation had with the Government of India are obvious from the statements of the Leader of the House. As has been said that emergency powers:-

"In order to meet our view point it was suggested on behalf of the Government of India that article 352 might be accepted as it is with the addition at the end of the first paragraph (I) of the following words : —

"but in regard to internal disturbances at the request or with the concurrence of the Government of the State".

It means that in case of internal disturbances the President's powers are not applicable to Kashmir unless he has concurrence of the Kashmir Government. It seems an agreement has been arrived at as regards this point, in case of a threat of war for external aggression the President of Indian Republic is empowered to proclaim a state of emergency and in the case of internal disturbances he will have to seek concurrence of our Government. Sir, the Hon'ble Members must have understood the background of my amendments. On the basis of the article 1 will submit that the President of Indian Republic cannot proclaim a State of emergency in Kashmir without our concurrence. It is obvious

from the first lines of article 352 of the Indian Constitution that if the President of the Republic is satisfied that the security of India or any of its parts is in danger, in that case he is empowered to proclaim a state of emergency in whole or any part of India, Think a while if Ceylon attacks Travancore or Cochin which are at a distance of thousands of miles from this place, the President of India can proclaim a state of emergency here also, but I want that the President may in any case exercise his power after consulting the Kashmir Government. He should not assume all powers. Unless this principle is accepted the people of Kashmir will think that their autonomy is not complete. In a way the President's Powers are a check on our powers. In the era of democracy when the nations are fighting for their freedom. The people of Kashmir have also won political freedom, after giving many a sacrifice. The President of Indian Republic is our political leader. But it is essential that restrictions be imposed on the powers of the political leaders also. He can without consulting us proclaim a state of emergency. For example if the communists create any disturbances in Calcutta, the President can for this reason also proclaim a state of emergency in Kashmir as well, because Kashmir is a neighbour of China. To justify his action he can even say that India is in danger. As far as our country is concerned the reins of the Government are in the hands of the real representatives of the people. It is those leaders who have roused the people of this place from their slumber and fought the autocracy. The President can declare a state of emergency without consulting them. Now again it is written in the section 353 that if the President is satisfied. But the question is how he will be satisfied; I will cite the example of Kashmir. If ten or twenty people of Ladakh shout that there is a danger of aggression from the side of Sinkiang and if the people who have been deprived of the lands or the usurpers shout that disturbances have started in Kashmir then according to the section the President can proclaim a state of emergency in Kashmir for these reasons alone. Now-a-days it is very easy to deceive the world. When Pakistan invaded Kashmir they went on shouting for full six months that it were not they who were fighting in Kashmir but the people of the land who were fighting for their freedom. But later when U. N. Commission came to the

place it was discovered that in reality it were the Pakistani forces which were fighting in Kashmir. Similarly if it is alleged that there are disturbances in Kashmir then how we can satisfy the President to the country. Therefore the word "satisfied" is undemocratic. What I mean to say is that the President of the Indian Republic should in any case, be in internal disturbances or a danger of external aggression, before proclaiming a state of emergency first consult the Jammu and Kashmir Government.

According to the instrument of accession our State has acceded to India as regards these subjects viz. Defence. Communications and Foreign relations. Every Kashmiri is ready to shed last drop of his blood to preserve this accession. We want that India's defence should become stronger day after day. Except these three subjects the State of Jammu and Kashmir is as regards the remaining subjects completely autonomous. We have our Residuary powers. We want to preserve them at any cost. We have not compensated the expropriated landlords. We want to have our own way. If the Government of India has accepted our autonomy as regards the land reforms, it is just possible that under the cover of defence it might not proclaim a state of emergency here and reduce our autonomy to naught. Under these circumstances we will have at any time to surrender our Residuary powers. I will submit that there are many more articles of the Indian Constitution under which measures can be adopted to define India. I want to draw your attention to schedule 7, Article one of the Constitution of India. There are various articles by which they can organize the defence of the country. There are many more things provided for the defence that of the country. Defence of India is very dear to us. We believe that our honour is safe in strengthening the defence of India. If someone raises his little finger to undermine the defence of India, we will surely kick him into the sea of oblivion. The people of Kashmir shed their blood for their freedom. They know how to lay down their lives for a noble cause. The people of Kashmir will be the first to strengthen the defence of India. But we do not want that under the cover of defence we should be deprived of our internal freedom. Now I will quote a passage from the speech of the Defence Minister of the Indian Republic Mr.

Ayyanger. He delivered this speech in the Council of States in connection with the discussion on Pandit Ji's speech. The extract of the speech as reported in the Hindustan Times of 8th August is as under :-

"As regards the point of Dr. Kunzru that the President's hands should not be tied down if he wanted to take action in respect of an internal disturbance affecting the security of India. He thought that the Prime Minister had made the position clear. While the action to be taken by the President under Article 352 was limited in this way in regard to internal disturbances, there was nothing to prevent Parliament from making a law under item one of the Union list, which covered all aspects of defence and enabled the centre to take a somewhat similar action when the peace or the security of India was threatened by some disturbances inside a State".

Sir, according to the statement of the Leader of the House a state of emergency cannot be proclaimed if there is any internal disturbance in the State. But a prominent statesman of India whose words represent the opinion of the Government of India, says that if the President has some powers his hands are tied down by article 325. On the one hand he says that under schedule 7 of article 1 we are empowered to enact laws. On the other hand the President of Indian Republic can give the internal disturbance a legal shape. Now tell me if it is not confusion worst confounded.

The Prime Minister of India who not only co-operated with us in our freedom struggle but also gave sacrifices for the purpose in his speech said :

"that Article 352 of the Constitution should apply to the State with the addition at the end of the first paragraph of the following words:—

"But in regard to the internal disturbances at the request or with the concurrence of the Government of the State".

That is, the state of emergency will be declared with the concurrence of the Government of the State". But Shri Ayyanger who is a respectable person says that section 352 restricts the powers of the President. He does not confine himself only to this but further says :—

"Dr. Kunzru said on a declaration of emergency under Article 352 the civil authorities were required to give some co-operation. How could that be assured if action was to be taken under the law suggested by the Minister;

Mr. Ayyanger said Parliament was fully competent to enact a law for the whole of India for the purpose of defence. If such a law conferred certain powers in regard to action to be taken in an emergency and compelled the civil authorities of the State to co-operate in this regard, so long as the law was made under item one of the Union list and the procedure prescribed. "We shall be able to get round the difficulties which have been created by the proposed insertion of these words in Article 352".

It is obvious from this that the Indian Parliament can frame laws for us also and by and by we will get merged with India as any other part has already merged. It is therefore, that I want to ask the Leader of the House a question, is it not the way that our State will get merged with India? Please do not misunderstand me. I am not making this statement out of any mental confusion. If we do not consider this problem at this time, then when shall this problem be considered. After all we have given many sacrifices.

We did not accede to India out of some mental confusion. There is a third aspect of this question. Why at all did we accede to India? After all Pakistan was also our neighbouring country. They had established their Government on a religious slogan. They could easily get 32 lakhs of people join hands with them, but we acceded to India. Because we thought all these considerations to be superfluous. We had entered the political arena with social, political and economic programme of our own which is embodied in the plan of New Kashmir. We knew that in India we will get help for our plan. The people of India are progressive. On the contrary, we could not get such help inside Pakistan. The Governor General of Pakistan Mr. Ghulam Mohd. was in the service of British. Mr. Feroz Khan Noor was also in the service of the British. It is therefore, that we acceded to India. Sir, we want that this accession gets consolidated. How can it get consolidated ? We

do not want any intervention. We can surrender our political freedom. If the leaders of India can assure our people to this effect, then I may tell them that not only the accession will get consolidated but it will become unbreakable. The President's powers cannot be applicable to us without our consultation. Then there is one more point, why does our Kashmir hold a peculiar position in India? Kashmir is a beautiful country. The borders of our country are contiguous with China, Russia and other countries. The rulers of America declare that Russia wants to conquer the whole world and therefore, there is danger of a world war. On the other hand Russia says that the Imperialist America is suppressing the workers and the peasants. We are living in a place where we face danger of war at every time. Four years back when we had danger from Pakistan the leader of the house went to India and got the help of its Government thus as I have already said that we have strange geographical position and whenever there is an apprehension of any danger we will ourselves seek help from President or India. Our position is different from any other part of India. Therefore I will submit that not only in the case of internal disturbances but also in the case of external aggression before proclaiming a state of emergency, the President of Indian Republic should consult our Government, so that we may be victorious in the ideological struggle we are waging at present. On the one hand, it is the theory of Mahatma Gandhi which we have owned and on the other hand, it is the theory of Jinnah which we are burying deep. To emerge successful in this struggle, it is necessary to win the confidence of the people. That can only become if the people of Kashmir are granted complete internal autonomy. With these words I will request the House to accept my amendment.

Mr. Krishen Dev Sethi : Sir, there is no place for any joy or grief because of the statement which is under discussion from to-day morning. Because only a part of the ideal has been realized for which we have been fighting from the very inception of our freedom movement and for which we acceded to India. Obviously only a part of the ideal has been realized. I think that unless not only in India but the world over various nationalities voluntary join together and unite thus formed base on mutual goodwill and respect, it cannot be lasting and

permanent one. It was in Soviet Russia that such an experiment was made for the first time in the history of mankind. These different nationalities enjoying complete right of self-determination formed a voluntary union. These nationalities have their own constitution and have equal rights. Its result was that when the German Fascists launched their war of aggression and conquered many parts of Europe. They got a crushing defeat at the hands of the Russians. Leaving aside the details of the agreement arrived at between the Government of India and the Government of Kashmir, if you have a look at it, you will come to know that agreement is a beacon light for the people of Jammu and Kashmir State and the progressive forces of India. The principle for which we had acceded to India has again been accepted by the leader of the Indian Government. On the contrary the various nationalities living in Pakistan are not given any chance to develop. In this connection suffice it to say that the people of the Frontier provinces under the leadership of Khan Abdul Gaffar Khan and raised the demand of complete autonomy for their country. But the rules of Pakistan are brutally suppressing this movement and have thrown Khan Abdul Gaffar Khan into the dungeon of Pakistan. It is because the Government of Pakistan sees a danger in the person of Khan Abdul Gaffar Khan, since he happens to be a champion of the cause of the Frontier people. The rights which we have secured from India and the points which are to be found in the agreement are that the people of Kashmir have the right to enact their own laws. The agreement will not only make possible for our people to march forward but will also have repercussion on that part of our country as well, which is at present under any occupation part of our country which is in reality ruled by Pakistan and officers where the internal autonomy has been done away with. The people there are also fighting for the same rights. At present nothing is being done there according to the wishes of people. It is because of this that frequently the rules of Pakistan remove their puppets and install new ones to manage the administration there. Thus this decision must give courage to people living on the other side of the cease fire line to rise and abolish the foreign domination. The same conditions are to be found in other areas also. The people are being put to trouble. The rights of minorities are being

usurped. The people's rights are not looked after. The people are not allowed to fight for their rights. The Anglo American Imperialists are creating such an atmosphere by which they want to establish their hegemony. The birth rights of the people are also being denied under these circumstances the agreement arrived at between the Government of India and the State Government which is of much importance. We are not the only and the people who have contributed to success of the agreement but even the enemies of the Indian democracy the representative of the dominant parties inside the parliament also contributed towards its success. Their efforts cannot be ignored. We have secured considerable help for them. We will not forget the help they have extended to us.

There is yet another class which safeguards the interests of the capitalists in India it is trying to launch an agitation against this agreement. Why do they resort to such practice. Why do they say that the Indian constitution should be applied to Kashmir? Simply, because, the Indian constitution willingly or unwillingly has not abolished the Jagirdari system nor have the Rajpramukhs been removed or capitalism there done away with. It is not proper to say that the Indian constitution be applied to Kashmir. Because it will mean that the Rajpunnukhs be preserved, Jagirdari is perpetuated and free hand is being given to profiteers. I will submit that at present the people of India are also fighting for the abolition of Jagirdari and want to do away with profiteers. As far as the demand of the people of Jammu is concerned that the constitution of India be applied to Kashmir is in reality the demand of a few capitalists because the people there do want constitution of India be applied to Kashmir. Why, the obvious reasons. If the constitution is applied it will mean that our peasants will be deprived of the land which they have received from our Government. It is therefore that they do not want that the constitution of India be applied to Kashmir. Those who framed the Constitution of India are now realizing that there are many loopholes in it. But they are helpless. Even then they are trying to remove these. The democratic movements of India and Kashmir are at the back of our decisions that the constitution of India should not be applied to Kashmir, the Head of the State should be deleted and not hereditary one and the landlordism

should be abolished. Where there are Rajpramukhs the people want to get rid of them. For example the people of Telengana and Patiala do not want Rajpramukhs. The peasants of Jammu do not want the constitution of India should be applied to Kashmir so that their lands are snatched away from them and handed over to the landlords. What they want is that fifteen lakhs of rupees which are being paid to the Maharaja of Kashmir be stopped. They want that the money be spent on the construction of canals etc. these are reasons for which the people here do not want that the Indian constitution be applied to our State. The people of Patiala also say that Jagirdari there be abolished as has been abolished in Kashmir. Two tendencies are working against the agreement which has been arrived at between us and the Government of India. There are those who want that Kashmir be completely merged with India. And then there are those who want that India should give up Kashmir for good. We will have to resist these tendencies. On the international plan efforts are being made to divide Kashmir. Mr. Shama Prashad Mukerjee also tried to create hurdles in the way of the agreement. The New York Times had also written against this agreement. Not only an element of the State is against this agreement but there are foreign elements also who are pleased with this agreement. Even to-day efforts are being made for the division of the State. We must try that no such intrigue is successful. I want to tell the U. N. O. observes that our problem is left pending in the Security Council, simply because that the imperialist powers might get a chance to conspire against the Soviet Union. These conspiracies have been exposed many a time and it is the U. N. O. observers who are hatching conspiracies now. The justification offered for their presence in our country is that it is necessary for U. N. O. observes to watch the cease fire line. I do-not agree with this explanation. However, I want to know that what made it necessary for an American observer to fly to Ladakh during the current week. It needs to be mentioned here that the borders of Ladakh are contiguous to Central Asia and it has nothing to do with the cease fire line. Why has he gone there ? It is because the Americans want to establish a military base there. A Kuomintang general who is traitor to his country and is a runaway also went to Ladakh at the same time.

The Synchronizing of their arrival in Ladakh is indicative of the fact that the Anglo American war mongers who are intriguing to unleash a third world war want to turn our State into their war base. But we are a peace loving nation. We want to have peace in the world and to see that the world peace movement gains strength. We do not want to have a third world war. But the Imperialist powers are trying their best to turn our State into a battle ground. It is therefore impressive on our part that we follow their game and do not allow our State and India to be turned into a war base. At the end I will submit that some of my respected friends have already thrown light on the agreement and some are going to do so. Therefore I will not go into its details, but only say that the agreement can be said to have been a success because it has been put down on the paper. On the contrary [will say that our accession to India is intended to demoralize and secularize India, moreover it reflects our sentiment and transcends all communal considerations. It is because of this that we have established strong links with India. The agreement can become lasting and permanent if we have strong links with the democratic movement of India, it is, therefore, I support the motion which has been submitted by the Leader of the House in the shape of a statement, Further I will submit that we must try our best to link our democratic movement with the anti-Imperialist and democratic movement of India, so that we can oppose that Imperialist and reactionaries of India.

Sardar Kulbir-Singh : In the morning I had also proposed an amendment to the actual motion. In this connection I find myself in complete agreement with the explanatory speech made by Mr. Sethi regarding the statement. After doing so I would like to express my opinion. Without going into the international and inter dominion implications of the statement and taking the statement as it is, I want to address my countrymen through this House. After studying the statement. I want to look at the statement in a manner which would help me to understand that with what purpose did we come here and what are the ideals for which our people have been and are fighting. Obviously the ideals referred to are the emancipation of our people from the depredations of want any property. We must test the

statement on the touchstone of people's betterment in the way we tested out ideas. While making reference to the background of our relations with India and the accession we have made with the Government of India. I can submit what can be defence of an agreement or a compromise. There can be a compromise with democratic countries only on the basis of these ideas, which the people have owned. There should be no going back upon the ideals. When we look at the basic ideals of our country what I observe is that when to establish a democratic set-up on Socio-economic freedom of our country our leader raised the slogan of Quit Kashmir, he made a statement before the court in which he explained the ideals and programme of his countrymen. While making this statement (he is at present the leader of the House) he did not mince words and that "I think the human society is invisible. It is my opinion that these rights should be preserved at all times and at all places. The fundamental rights of all men and who are similarly their hereditary rights and these cannot be denied to them. This is quite possible that they may be suppressed for the sometime. But ail the men and women of all the countries have a right to live like a free people and frame laws according to their political, social and economic condition so that these help them to make progress. I think that sovereignty vests with the people and ail the political, social an" economic conditions should be based on the joint wishes and desires. While we have referred to the ideals which the Kashmir people have set before themselves and that the people of the State have linked their fate with India, at this time the greatest leader of India Pt. Nehru while speaking at Ludhiana Conference said whatever we are doing Kashmir is for the completion of the ideals which are necessary for a secular and democratic State. He had explained clearly and has said. It will be nothing short of stupidity to expect that people will preserve the fetters of slavery which have been imposed on them by deceit and coercion. They will not tolerate a system or Government which sucks their blood. We accept the only and ultimate sovereignty. That is the will of the people. There is only one consideration before us that is the betterment of the people. Sir, naturally the eyes of the people of this land turned to these ideals. The national movement of our country which created this

Constituent Assembly and the leaders who have returned from India after having negotiations with the Government of India had made it clear to the people of India that freedom is the birthright of the people and unless the autocratic system is done away with the nation cannot be said to be free. So when India became free the first and for most question which arose before us was the abolition of the autocratic rule in our State. The programme of New Kashmir was the symbol of our eighteen years struggle. In this connection, our leader Sheikh Mohd. Abdullah had said that after achieving political freedom we must be free from all types of exploitation. In the absence of this political freedom is nothing but a farce. These were the aims for which our people were struggling. We have to see that the statement does not hinder "the realization of our aims. We cannot ignore the historic background of the statement. All misunderstanding must be clear after these discussions. Sir, when the question of accession had not cropped up i. e. at the time when our leaders were just coming out of jails. At that time the paramount question before us was that of freedom. All of a sudden the British left our country took stock and barrel. We were in a state on discussion. We had not yet taken a decision, that we had an invasion from Pakistan. Under these conditions we felt the necessity of accession. When we saw that one of our neighbouring country India which had always endorsed our stand, we naturally looked towards them. The leaders of India extended their help and proved of its love for democracy. To-day India is again giving a proof of its love for democracy. When they say that it is the people of Kashmir who will decide their future. Again when we set up our Constituent Assembly and the question of the status of Kashmir arose, the time also they provided section 370 in their constitution and said that Kashmir had acceded to India only in regard to three subjects i. e. Defence, Foreign Affairs and Communication. As regards the rest we are completely autonomous. When the Constituent Assembly was convened the reactionary forces of the world raise their voices against it. Even in the U. N. O. legal objections were raised against it. But the Government and the people of India gave them a smashing reply. Moreover they asserted that the Assembly, was a sovereign body. Sir, with the convoking of the Constituent

Assembly many a problem arose, which required our immediate attention. We therefore took emergency measure abolished, Jagirdari and Hereditary rule. These measures of ours naturally created constitution among, the communal and feudal elements. But such people can be counted on finger-tips. Therefore no heed was paid towards them by the people of India. In this connection the discussions which were held in the Indian Parliament have satisfied us considerably and we have realized that there are no hurdles in our path. Sir, the reality is that the people of Kashmir are not spectators. On the contrary they are taking note of each and every thing. They know that the real sovereignty vest with the people. All this emanates from the statement. Nowhere have our ideals been ignored. There is no denying the fact that the reactionary elements of the State joined hands with the reactionary elements of India with a view to render our plans unsuccessful, but all their efforts ended in a smoke. The acceptance of our fundamental rights by the Indian leaders meant a defeat for the local reactionaries. It is obvious from the agreement that almost all our fundamental points have been accepted. There are critical times in the life of a nation. As the saying goes that there are tides in the affairs of men and at such a time if the leadership shirks from its responsibilities the whole face of the country will be changed. Efforts were made from many a quarter of India and Pakistan to browbeat our leadership, but our leaders did not budge an inch from their stand, Ever-since the inception of the Constituent Assembly many intricate matters arose, out our leadership stuck to their guns and consequently they had not to face any defeat. When we decided to have an elected head of the State and corresponding amendments were to be made in the Indian Constitution, an unpleasant atmosphere was created. But all the questions were settled by our delegation by mutual negotiations. And today we see that our fundamental principles have been accepted. If India wants to have some powers, then it will be our Assembly which will delegate these to .them since it is the sovereign body as far as the State is concerned. If we think it proper that the powers should be delegated, we will surely do it, and else we will not. In my opinion there is no room for any apprehension or danger with regard to the amendments we have

received. The Leader of the House will explain other points in his speech, but I will candidly say that there are no dangers at present in the agreement. The people of Kashmir have their own ideology and I may assure you that we have not in the least deviated from it. In connection with the amendment proposed by my learned friend Mr. Goni, I will point out that clause 3 is a formal one there is no harmful thing in it. I cannot ignore the point that whoever be the Head of the State he will not be appointed because some concession have been given to somebody. Our leader of the House while making his statement had said, that we do not hate any person. We will have no objection to Yovaraj Karan Singh getting elected to the post of the Head of the State as a common citizen, but only the other day I read an interview which was published in the Statesman. The responsibilities, powers and positions etc. were mentioned there. It needs to be mentioned that now sovereignty and powers vest in the people and whatever the people wish that will be done. As far as the fundamental rights are concerned, it is obvious from the statement that India has not snatched any of our rights and we have no danger on this score. Our Constituent Assembly has formed a committee which will frame the fundamental rights. No one will snatch our autonomy. We are ourselves framing our rights. I would like to point out that I have the honour of representing displaced people. When I met them I found that the enemy had spread many rumours among them.

In the footnote to the definition of the citizenship is stated that the people who at the-time of disturbances, left for Pakistan or India can also become our citizens. In fact the people living at Ramalakot or Mandar are also our citizens. We do not know when we shall be able to join together; as far as the rehabilitation of such people is concerned it will be done at one and the same time. I believe there is no objectionable thing, in this agreement. Sir, most of my Hon'ble friends have thrown light on the question of State subjects. In this connection I do not want to speak any more. The people and the Legislative Assembly of the State have every right to decide this issue. I want to tell those who are against our autonomy and say that it will weaken the country, that it is our matter, Besides, if we study history we come to know that decentralization does not in any way weaken the

country ; on the other hand it strengthen the country. The U.S.S.R and U.S.A furnish vivid example of such a phenomena. There should be a common outlook in such federation. It is a natural corollary in a federation that a smallest unit should also feel that it is an independent and free as regards its own affairs. The amalgamation of various constitutional units form a federation. The question of relation with India getting weaker does not arise, so long as the Government of India and Kashmir believes in a welfare State and have a secular outlook. The Government of India and Kashmir have both accepted that autonomous Kashmir will be a source of strength to India. I fail to understand why Mr. Shama Prashad Mukerjee does not accept the position. The glorious role our movement has played for the development of the country and our remarkable achievements are known to the world. The leader of such a movement will not restore to such actions which will weaken our relations with India. Our autonomy must be maintained. Our geographic position is such that if we are not autonomous the whole internal structure of our country will get topsy-turvy and will weaken the whole of India. The people of India and Pakistan have their eyes fixed on us. When I was at Delhi I found that of all the people we were looking at for support was Mr.Nehru. He constantly supported our cause. The reactionaries shouted that if autonomy is granted to any unit, it will weaken the whole of India, Shri Nehru rebuked such critics and said that far flung area of India cannot be united with uniform policy. Kashmir can take its proper place in the body politic of India only if it persue progressive policies. It is through these policies that we can cement our bonds with India,

Sir, I will submit that our relations with India be they economic political are sue!) that no power on earth can break them. We and India have a common world outlook. No power can separate us from each other. With these brief words and the amendment I have proposed would request the House to unanimously accept the statement.

Mr. Hakim Habib-ullah : Sir, ample light has been thrown on the statement made by the Hon'ble Prime Minister on August 11, 1952, A number of amendments also have been moved by various members-. Some members have

expressed their concern over the agreement concluded between the Kashmir and the Indian Government. No one can gainsay the fact that we are passing through critical times. Careful deliberation is needed to understand the different problems facing us. The need of the hour is that we should make a critical study of the situation prevailing in the country and understand its various aspects. The question of accession arose when India was divided and the New Dominions of India and Pakistan came into being. In consequence of the division, loot, arson, wholesale massacre and lawlessness become the order of the day. We were confronted with the question of accession to the Indian or the Pakistan Dominion. Both the countries were passing through a period of anarchy. We thought that we should accede to the Dominion where our unity and sovereignty is guaranteed. After sufficient deliberation we came to the conclusion that our unity and sovereignty can remain unimpaired only in India. When the accession arose our leaders had to think out the ways and means whereby the unity of the country could be maintained and our relations with India strengthened. We gave the matter our earnest consideration and in order to preserve our right of self-determination acceded to India in respect of three subjects only viz. Communications, defence and foreign affairs. The State enjoys full autonomy in respect of all other matters save the above mentioned three subjects. We do not want to restrict our freedom in any other way. Some people say that the present agreement is not in accordance with their desires. They argue that Kashmir has right to enjoy internal autonomy, adopt separate flag and be sovereign in respect of any other matter. Sir, we have spared no sacrifice for the sake of freedom, many of us Sir, bared their chests to the bullets and braved lathi-charges. It is, therefore, we chose to accede to a country where our freedom and sovereignty could be guaranteed. We know it could be so only in India. The matter is being debated in the Indian Parliament these days. Many a members there outwardly admit in their statement that the Kashmir State enjoys complete internal autonomy, but in reality they do not relish the fact. They object to our adopting a separate flag and asserting our sovereignty in respect of all other matters except those which have been transferred to the Union Government. They want to take

away from us our rights for which we have sacrificed so much. Dr. Shayama Prashad Mukerji says how can Sh. Mohd. Abdullah be called the Prime Minister of Kashmir when in India only Pt. Nehru can be called by this title. Perhaps he does not know that the people of Kashmir have achieved their freedom themselves and they mean to preserve it well. However, I do not want to go into the details. The speech made by Dr. Mukerji in the Parliament has given rise to many doubts and suspicions. People feel greatly surprised that why should a man like Dr. Mukerji behave in such an irresponsible manner which is liable to create-distrust in India and Kashmir. He has said :

"Let Mr. Abdullah declare that he accepts the sovereignty of this Parliament. There cannot be two sovereign Parliaments in India. You talk of Kashmir being a part of India and Mr. Abdullah talks of a sovereign Parliament for Kashmir. It is inconsistent. It is contradictory."

Sir, you see that a reactionary person is strengthening the hands of communalists here. We have to devise a plan to combat the activities of such elements that are raising their heads in India. The presence of such an element in the Indian Parliament is a source of danger to our sovereignty. They want to strain the relations between India and Kashmir and it is imperative that we should preserve our sovereignty". Sir, the President of the Indian Republic is authorized to declare a state of emergency when the country is threatened with external aggression and such a declaration can be made in Kashmir as well. If there is a state of disturbance in Kashmir and the Government is unable to control the situation they can in such a case request the President of the Indian Republic for help. If a declaration of the President of the Indian Republic applies to Kashmir 'Ipso facto' it affects our sovereignty. Our authority ceases so I agree with Mr. Renzoo that in case of war or a threat of external aggression a state of emergency is declared in the whole of India or any part of it. The declaration should not apply to Kashmir because it reflects upon our right of self-determination and freedom. With these words I support Mr. Renzoo's motion and request the House to support it (Cheers).

Mr. Ghulam Moh'd. Beg : Mr. President, the leader of the House has in clear and unambiguous words tarred in his statement that we have acceded to India as regards three subjects only. The accession has been accepted as such. Moreover, the right of the Kashmiri people have not been denied. So it is a happy augury for the people of Kashmir. We have acceded to India to strengthen our programme of New Kashmir. We have joined our hands with the party in India which has always upheld our cause. The Rulers of India have accepted our limited accession i.e. accession as regards defence, communication and foreign affairs and regarding the rest of the subjects they have recognized our autonomy. Some of the enemies of our movements have launched a sinister campaign and shout that ours is an incomplete accession. But our accession is complete. In fact and law cannot even be dreamed that the accession is incomplete. The liberation movement of Kashmir is now 21 years old and is based on the ideals and - principles which will lead Kashmir towards progress and prosperity. It is precisely for this reason that we have acceded to India. Those who want to weaken this accession are the real enemies of India. The People of Kashmir are not going to surrender their right of self-determination. We struggled for years together to achieve freedom. We not only wished the autocracy is done away with but also wished to carry the programme of New Kashmir to completion. In this connection we bore the brunt of the attack. Now the people who are opposing us are in fact those for whom our programme sounds a death-knell. The landlords, communalists and vested interests constitute our enemies. On the contrary the freedom-loving and progressive people of India are the supporters of our programme. We are glad to note that inspite of opposition from certain quarters the decisions of our Assembly have been hailed by the people of India. The abolition of monarchy and land-Lordism in the State have been hailed by the entire freedom-loving people of India. There is no denying the fact that programme of New Kashmir can be realized only in India. The people of the State are fast realizing that in spite of some opposition from certain quarters our measures are being approved by the people of India. I am convinced that our programme is sure to be realised since we have acceded to India. The efforts of

our enemies which were directed against us have been dashed to ground. We want to make it known to everybody that we are out to preserve our autonomy at any cost. No communalist or reactionary can create any hurdle in our path. If such an effort is made from any quarter, they must remember that Kashmir is not such a country that can be browbeaten. We know how to fight for our rights and freedom. We have fought the vested interests and the reactionaries. Let the world know for good that if efforts are made to deprive us of our autonomy we will resist all such attempts and never allow such people to succeed in their efforts to subjugate us again. We will not hesitate to offer any sacrifice for the preservation of our autonomy. The other point which I want to submit is in connection with fundamental rights. According to the statement of the leader of the House no final decision has been taken as regarding this we will have to take a decision regarding this point after a thorough consideration on our part. The right of citizenship is deeply linked with the system we want to establish in this country. Therefore, this point needs deep consideration. We have no difference with the right of citizenship of India but what we say is that we want to confer these rights according to the plan of New Kashmir and thereby make it possible for our backward country to progress. Regarding this point we will explain our own theory in time. Now allow me to close my speech.

Hon'ble President: Now the session is adjourned till Tuesday, the 19th of August. 1952 at 11 A. M.

JAMMU AND KASHMIR LEGISLATIVE ASSEMBLY

Fourth Session

AUGUST, 1952.

Tuesday, 19th August. 1952/4th Bhadon, 2009.

The constituent Assembly met in the Constituent Assembly Chamber, Srinagar at 11 of the O'clock.

Mr. President (Hon'ble Mr. G. M. Sadiq) in the Chair.

***Hon'ble President :** S. Harbans Singh.

***S. Harbans Singh Azad :** Sir, I rise to express my views regarding the statement of the Leader of the House. While giving expression to my views regarding this statement and the agreement contained therein, I keep only one fact before me, i.e. whether this statement and the agreement is in accordance with our wishes and aspirations and furthermore, whether this statement and the agreement recorded therein is quite in keeping with the political structure visualized in the "Naya Kashmir" rather would I like to go further and see whether it does not conform to the policy statement of the Leader of the House made by him on 5th November, 1951. As far as this policy statement is concerned, I consider it necessary to adjudge this statement and the agreement in the light of the same. I will read an extract from the said policy statement.

"New Kashmir contains a statement of the objectives of our social policy. It gives, broadly, a picture of the kind of life that we hope to make possible for the people of Jammu and Kashmir and the manner in which the economic organization of the country will be geared to that purpose. These ideals you will have to integrate with the political structure which you will devise".

It is clear from the above words that we want to have such a position for the people of Jammu and Kashmir in the Indian union as is in conformity with that programme through which our economic, social

☛ **Note:—** The star mark indicates that the speech was delivered in Urdu and English translation thereof is incorporated in the debate and political objectives can be realized. In my opinion, the agreement maintains individuality of Kashmir. Keeping this very fact in view, we cannot make any progress as-long-as the basic rights of self-expression and self-realization are not guaranteed in it. It is important to keep this fact in view. Sir, I submit that this ideology and the programme cannot be translated into actual practice till our relations with India are defined unambiguous terms. Article 1 of the Constitution of India says :—

“India, that is Bharat shall be Union of States.”

It clearly means that Indian Constitution is not a unitary one but a Federal Constitution; and we have to see as to how can we fit in this Federal Constitution so that our programme and policy may be implemented. This matter deserves a serious thought and we have to discuss its pros and cons with cool heads for it is both complicate and delicate one.

I would say that the Federations of the World that is U.S.A. Switzerland, Canada. Australia etc. are contractual agreements. In this behalf I will quote the actual words used by an author. "The Basic Principle of the Federation is that the Federation is a contractual agreement between the Central and the State Govt. involving distribution of power and definition of all possible relations between the two. The contract must be honoured and faithfully observed." These words show that the Federation is a contractual agreement and if this agreement is not honoured and adhered to faithfully by the parties, there is a danger that the very basis of the federation may be shattered. In a vast country like India where there are different religions, races, cultures and languages and where 220 dialects are spoken these facts have got to be taken into consideration while running the federation. I submit that when for the first time, a democratic Government was set up in Canada, no regard was paid to the fact that there existed in Canada several religions, cultures and races and it was for this very reason that they had to change their constitution later on and adopt a federal one. We have therefore to see whether the economic and political policy to which our party is committed has been recognized or not in this agreement because we want to keep our individuality intact. In the light of these facts we have to see as to how far does this statement and the agreement contained therein help us in the implementation of our policy programme. We have declared in clear terms that we are a part of India and that Kashmir is an integral part of the Indian Union. As far as our basic policy is concerned, it can make headway only if we remain in India. That is why the State of Jammu and Kashmir has acceded to India.

India too is a Federation like Switzerland, Canada and America, in a federation, the State does not derive its power from the Centre but from Constitution itself. Therefore the Centre and the States are independent of each

other in the Constitution; We see today that the federation-of Canada and America are making great progress due to this "very season. It is being said that Kashmir has been given a special position and, that it will weaken India. I would like to ask as to why Canada and America are not weak when their constitution lay down that the States are independent of Centre. Those who are advancing these objections are the very people who do not want that the people of Kashmir should make progress, broaden their outlook and remain in the Indian Union.

In pre-war Germany, Russia was contributing 30% to the income of the State and enjoyed 70% of the political power. What. I need to say is that according to the constitution of a federation, every State has a right of equality of opportunity to make progress. The reactionary people in India ask as to why Kashmir has been granted a special position. The special position has been admitted under Article 370. The political, Social and Economic Structure that we have to build in the State will be in accordance with the programme under which we have abolished feudalism and landlordism. These people are creating a fuss as to why does Kashmir enjoy internal autonomy. We have acceded to India to retain our internal autonomy; and the Centre cannot make any encroachments upon it. It can do so only with the concurrence of the people of the State, I wonder how these people raise such objections, if they understand the principle underlying the Union of States. No federal structure can-work if its component units are not allowed to function according to their local needs. We want a special status for our State because we want to go ahead according to the genius of the people and peculiar conditions in our State.

***Hon'ble President:** Order as the time at our disposal is limited and many Hon'ble Members have still to express their views on this statement. I will allow 15 minutes to each speaker.

***S. Harbans Singh Azad :** A friend of mine raised an objection yesterday that we do not want the President of India to exercise his emergency powers at the time of internal disturbances in the Jammu and Kashmir State. It is clear from the agreement that the concurrence of the State Government is essential in the case of internal disturbances. The President cannot act if the State Government does

not concur. If this concurrence is included in the Constitution of India and becomes a part of it the Parliament cannot circumvent it unless it is amended by 2/3 of votes. The Parliament will not amend it without our consent for otherwise it would mean violation of the agreement. Therefore the fears of my Hon'ble friend are baseless. Another gentlemen raised the objection to the words 'Satisfaction' of the President. For his satisfaction, may I submit that the satisfaction of the President does not mean his personal satisfaction. It means the satisfaction of the Prime Minister and in turn the satisfaction of the Union Cabinet. It also means our satisfaction.

It is apprehended that there may be a time when the President of India holds one opinion and our Assembly takes altogether a different view. Such gentlemen fail to understand that we are discussing an agreement entered into by two parties. If this agreement becomes a part of the constitution. Parliament cannot pass a law which is in conflict with it. Such a law or bill will be ultra-vires of the Constitution and the Supreme Court can declare it so.

As far as citizenship rights are concerned, it has been agreed that the people of the State should be recognized as citizens of India. Double citizenship is recognized in Federal system of Government. It is nothing new people of United States are considered to be the citizens of the States in which they reside as well as the citizens of the Federation. We have not asked for anything new. We want certain restrictions because we want that the people of the State should get an unhindered opportunity to progress. In many States of India, in the matter of services preference is given to the indigenous subjects of a State. This fact would be clear from advertisements in daily newspapers. Moreover, Article 15 of the Indian Constitution permits State legislatures to pass laws for the benefit of backward classes under the principle of equality of opportunity guaranteed in the Constitution. It is clear from the statement of the Leader of the House that the citizenship rules would be liberalized. As far as the rest of the objections are concerned. I think that those who have raised these do not want that the relations between India and Kashmir should be strengthened.

Regarding Fundamental rights I do not want to go into the details as a separate committee has been set up to go into the whole question. We should reserve our judgment till its report comes up for discussion. Our fundamental rights should be in accordance with our Social, Political and Economic programme. Not taking any more time of the House I hold that our basic policy has been preserved in the agreement. It is necessary that we should get for our social and economic programme a permanent place in the Indian Constitution so that no part of Parliament is in a position to take a decision which is against the spirit of this agreement. With these words I support the statement of the Leader of the House.

***Mr. Chuni Lal Kotwal :** Sir, I rise to speak in support of the resolution which is under discussion. The people of the country have always understood the term "Independence to mean the betterment of their economic conditions and freedom from poverty; want, un-employment and ignorance. Ever since the beginning of the freedom movement: the Leaders of this freedom movement have always given the people to understand clearly that freedom means economic freedom. Keeping this fact in view, the people took part in the freedom struggle and attained political freedom after making a lot of sacrifices. The party which fought for freedom, placed before the country not only the programme of the freedom movement but also the future, social and economic structure of the country in the form of Naya Kashmir. It has always been a distinguished feature in the freedom movement of the Kashmiries. The Indian National Congress, was fighting for the freedom of India in those days, but as far as my knowledge goes, that party did not place any economic programme before the country. The future of Kashmir is bound up with the enforcement of the principles embodied in "Naya Kashmir" which is our aim and the economic and Political programme of the State. The people realized it very clearly that freedom of our country can only be attained by giving a practical shape to the programme of "Naya Kashmir." Hence this programme was placed before the country and the world at large. India always helped and sympathized with us during our struggle. This was the reason that we clearly felt that our economic programme can be given a practical shape when

we accede to India and so we showed our preference for India. When we came to power, we began to put into practice every item of the programme and as seen by the world we abolished landlordism a fact which is not envied only by India, but by the whole world. There are still many reforms which we want to force and we expect that India would always help us. Crores of farmers and labourers of India have always viewed our programme favourably and have prayed for our success. Some reactionaries present in this country also, tried to form an unholy alliance to make our programme unsuccessful, and created some confusion by alleging that we did not follow the Constitution of India. Our Leader of the House sent from here a delegation to Delhi to remove this very confusion. They had consultations with the Indian Leaders and the present statement which is before us now, is the result of those talks. It gives me pleasure to note that the reactionary elements which wanted to revive the dying autocracy and feudalism, suffered a failure and so this decaying system perished. Our delegation went to Delhi in these circumstances. Our point of view was that our country cannot attain prosperity as long as the principle of the autonomy is not acceded to. There was nothing surprising in it. Hence these leaders who fully appreciate our intentions, agreed with our delegation, and we have their blessings with us. Some of our friends in their speeches have raised objections on certain points but, if we read this statement carefully, there remains no ground for entertaining any doubt. These Hon'ble friends, have picked their points at random and these are likely to give rise to doubts ; but after studying this statement carefully, we reach the conclusion that our sovereignty is intact, except in respect of those matters which have been given to the Union. We can build our own future and give a practical shape to Naya Kashmir. The statement of the Leader of the House, if viewed from this perspective, is praiseworthy and the spirit which was working behind it is also worthy of respect. My personal opinion is that in framing the Constitution mostly those ideals and political theories which faced the world and Europe after World War 1, and also the theories of Mr. Dyce the famous constitutionalist of Great Britain be kept in view. Some ideals and theories have come before us after the First World War. Our neighbouring countries have given

them a practical shape and have provided the farmers and the labouring classes with such amenities and we cannot ignore them. The Indian people have paid little attention to these things. However, in the Constitution that we are going to frame there will be sufficient discussion on Fundamental Rights and Citizenship and other matters and we will spare no efforts to build such a social order as we have placed before the world. I cannot predict as to what will be done by the Fundamental Rights Committee which was formed by us and as to what will be the decisions arrived at by the same committee. To predict anything in this respect, before the Committee has reached any decision, would be tantamount to influencing the Committees opinion. I support the resolution under discussion and recommend that all those amendments which have been put forward by my friends may be rejected unanimously. I further express my gratitude to Indian Leaders for the spirit with which they accommodated our principles.

***Mr. Ram Piara Saraf :** Hon'ble President. I seek your permission to submit a few words in connection with the statement of the Hon'ble leader of the House which has entered the second day of discussion. The Kashmir Problem has been passing through a critical phase for the first five years. Not only the State people and every Indian but everybody in this world is interested in it. Their interest is not without a motive. Every political worker and organization adjudges this problem in the light of its own ideology and present a solution accordingly. The Kashmir problem is one of those problems which have international importance. Iran, Egypt, Korea, Palestine and other countries of the world are different links of this very chain and any wrong step in this connection is fraught with the danger of jeopardizing the world peace and spreading anarchy in every nook and corner of the world. Hence it becomes necessary that while presenting our views on the problem, we should always remember that are speaking on an important issue and we should try to present this issue in its true colours. When we say something, the critics may put quite a different construction on our view. When we transferred the land to tillers without compensation, the Indian Press presented this issue from a wrong angle and the same attitude was adopted when we took a decision in respect of the future of the Royal Family. In view of

these attitudes, I submit that we should be very cautious while speaking on the Kashmir issue. Today there are different tendencies regarding this issue. One of these is that the Indian Constitution should apply in its entirety to the State, and this is being advocated by those who do not favour the economic structure visualized by us. The people of the same type put forward another view point i.e. that the State of Jammu and Kashmir be made over to Pakistan. There is yet another class of people who hold that the State should become completely independent, and those who advocate this view belong to the same class of people which is bent on selling away the State. But none of these tendencies is correct. We know that we alone, and nobody else, can decide the future of the State. It is only the people of this place who are entitled to give a decision about it. Some interested powers want to convert this State into a war base, and throw us in the flames of war. But we want to declare it in unequivocal terms that we are not prepared to give this concession to any Foreign Power. I would like to say through you, Sir that we are not going to agree to the decisions which may be arrived at even in the Geneva Conference which is being held these days in connection with Kashmir affairs, until and unless the same are presented to and approved by this House. As far as the statement of the Leader of the House is concerned the problem of the State of Jammu and Kashmir can be divided into two parts. The first part is; what would be the relations of the State with India? The second part pertains to the State problem which has been kept pending for the last five years in the Security Council. It is: Under what circumstances did we accede to India ? What are the reasons for our joining ourselves with India ? Kashmir linked herself to India under some special circumstances and in pursuance of a definite programme. There was no wish for expansion working behind it; there was no idea of getting riches and property, or any greediness or any wish of obtaining power ; rather there was a definite programme before the people of Jammu and Kashmir. There was definite economic and political programme through which it was aimed to bring into being a socialistic system and it was our wish to complete our economic structure after our accession to India. Today the voice is being raised by certain elements in the country to divide

the State into different parts and this is being said by the same class of people that wants to destroy the unity and solidarity of the State. They want to separate Jammu and Ladakh from the State on the ground that these areas have a majority of Hindu population. Mr. Jinnah raised the same slogan which culminated in the partition of India. By trying to disrupt the solidarity they are strengthening the hands of Jinnahites. But the leaders of this Organisation would do well to know that in case the State is partitioned, then not only this State but, both India and Pakistan will perish. The humanity is being put to test in this State and if it fails here, then not only the State but also India and Pakistan would have to face unlimited troubles and difficulties. It being asked by our opponents as to why the State is adopting a separate flag. I would like to ask them, when the flag of Rajpramukh was flying here till yesterday why did it not strike in their minds to have the national flag instead of the one signifying autocratic rule. But only when the leaders of the national Movement raised their flag, which the people of this country have held aloft by shedding their blood they stood up and declared that it was an insult to the National Flag of India. But I would submit, that we respect this flag as much as the Indian National Flag is respected in India. At this stage I would like to draw the attention of the Hon'ble Leader of the House to the fact that although I have seen this flag flying over the Srinagar Secretariat but the old flag is still flying over Jammu Secretariat. Why our flag is not flying there too is not understandable to me. The communalists of that place have said that they would not allow this flag being hoisted there. But we would like to see as to who dares to stop this flag from being flown over that place. Different elements have raised the objection that a separate Constitution is being framed for Jammu and Kashmir State, and that this is disrespectful to India. But I would like to ask whether the people of India do not want to change this Constitution ? We cannot allow to force that Constitution on peasants and labourers which provides ample opportunity for their exploitation by capitalists, landlords and other reactionary forces. We cannot tolerate that the Jammu and Kashmir State should be divided into different territorial units. Some of the people want to have the supremacy of the U.N.O. here but we shall solidly guard our National Freedom. It is being

conspired by the imperialists as pointed out by my Hon'ble friend Mr. Sethi in his speech to convert it into a war base against the Chinese Republic and Russia.

General Dalil Khan a puppet of Chiang Kai Shek is at present in Ladakh. We will never tolerate, the hatching up of plots in this country against those countries which have their borders adjoining ours. The Chinese Delegation refused to come over here for the very reason that spies are working here against their country. I would request the Hon'ble Leader of the House to make it clear as to why Dalil Khan is staying in Ladakh. He has also an American observer with him. Is some conspiracy being hatched there? Dalil Khan after returning from America went to Ladakh and stayed there. With these words, I support the statement of the Leader of the House.

Hon'ble M.A. Beg : Mr. President with your permission. Sir, I may be allowed to speak in English because I have to make reference to Articles of Constitution of which only English version is available. I have also to refer to various points of law. I find it difficult to speak in vernacular.

Sir, I am extremely grateful to Hon'ble Members who have spoken on the subject which is under discussion in the House. I have listened with great pleasure to the illuminating debate which took place the other day and is continuing this afternoon. I would express my gratitude and submit that it is necessary to remove certain doubts and clear certain points. The debate has removed certain doubts and cleared up certain misunderstandings. But it has given me the opportunity to remove certain other misunderstandings that have been given expression to by some Hon'ble Speakers in this House. I rise to say, Sir, that we took the delegation to Delhi in order to start talks with the Government of India after this House had passed the memorable resolution of 12th June, 1952 regarding the termination of the Hereditary Rulership in the State, and I and my colleagues of the delegation brought such competence to bear on the situation as we possess. The delegation was later on reinforced by the Leader of the House and Deputy Prime Minister. We did our best let me say, Sir, to arrive at an understanding which can be possible under the circumstances in which we are, and therefore, Sir, I had no doubt that as we produced that

agreement before the House it will receive unanimous support. Perhaps critics there are ; and inspite of that expectation this Agreement has been made-the subject-matter of good deal of criticism (friendly criticism through) some there who ask why and how National Conference and this Constituent Assembly could be so critical about the decision of its own men. To them I want to say. Sir, that these expectations would have come certainly true. But we must admit that after our talks in Delhi a good-deal of criticism in the Press, some expressions in the Upper House and Lower House of the Union Parliament which found publicity in the Press ; and certain other criticism appeared from other quarters and those expression have been mainly responsible for the criticism that we have heard here for the last two days. And it is because of that criticism that some doubt has been created in the minds of some of our colleagues. I am, therefore, taking this opportunity to answer that criticism as well as to remove those misunderstandings which have resulted from the criticism.

Before coming to the specific points which formed the subject matter of our discussion at Delhi, I want to answer certain broad objections that have been raised during the debate. And I shall, therefore, come to various points seriatim, about at which we expressed our opinion some of which we give our agreement to and some of which are still under examination. These broad points I shall take one by one.

One question is that the delegation was charged to explore what constitutional adjustments will be necessary in pursuance of the decisions of this House regarding the termination of Ruling Dynasty ; why did the Delegation broaden its discussions on a large number of other points at Delhi. I first of all answer that question. No doubt Sir, after this House had passed the resolution terminating the Ruling Dynasty, we had only to see what constitutional changes would be necessary in the Union Constitution Under Article 370, explanation to clause 1st is that "Maharaja of the State is a person recognized by the Union President". Now, after we do away with the Ruling Dynasty and the Institution of Hereditary Ruler of the Maharaja the unavoidable legal necessity is that this explanation in article 370 shall have to be amended. This reference to Maharaja of Jammu and

Kashmir appears in Article 371 and other Articles of the Union Constitution. After the resolution of this Assembly is given effect to by the Union Authorities, it will necessitate changes in the relevant provision of the Indian Constitution. That was the first task and we addressed ourselves to that task. During the discussions on that Constitutional Issue certain other matters arose and I must admit that we were asked certain questions. For example, we were asked what is the definition of a Kashmiri Citizen ? What is the position of Supreme Court ? What is the idea or the conception of the framers of Kashmir Constitution in regard to Fundamental Rights ? What is the position of Kashmir Flag vis-a-vis the Union Flag, about which this House took a decision. It is true Sir, I must admit, that the Government of India held the view that all these matters i.e. Citizenship, Fundamental Rights, Election to the Parliament, President's Powers, Residuary Powers etc. etc. provisions in relation to these in the Union Constitution inevitably flow from fact of accession of Jammu and Kashmir to Union of India. It is true that the Government of India held the view that whether you accede in one or two or three subjects you are a part of the territory of India and certain provisions of the Union Constitution inevitably apply to you. According to them these are the necessary concomitances of Federation and inevitably flow from the conception of Federation. Let me dispel the doubts of the Hon'ble Members of this House that not only the Delegation but the whole Party including the leader of the House categorically denied this position and said it is not correct; that beyond what we have acceded in under Article 370 which is a creation of the Constituent Assembly of India, beyond those subjects nothing applies to the State of Jammu and Kashmir (cheers). Under the provisions of the Union Constitution, Jammu and Kashmir has acceded to India in these subjects only, unless we with our free will accede further. That is a necessary corollary of Residuary Sovereignty. But as regards the point whether by reason of being a territory of India some other provisions are necessary applicable which according to Government of India, embody fundamental concept, of Federation, we categorically denied the position and held that they did not apply to us. We specifically referred the Provision of Article 370 sub-clause 2 under which the right to agree to the application of other

provisions of the Constitution has been expressly given to this Constituent Assembly. We referred to this clause and put it to the representatives of the Government of India. So in pursuance of that clear and categorical provision of law Government of India could not automatically apply any other provision of the Constitution of India to the State. Take for example the provision relating to citizenship Article 5 does it apply to us? In fact it does not apply to us ipso facto, and they admit that position. So our conception of Federation excluded the idea of application of other provisions automatically. I re-affirm that whatever we agree to shall apply to us and whatever we refuse shall not apply to us. In spite of all this we thought that it will be hostile attitude, a wrong and un-friendly attitude and unfair on the part of Constituent Unit of India to say that we refuse to discuss our view point about certain fundamental matters such as Citizenship, Fundamental Rights, Supreme Court and the position of the Union Flag etc. We said, we agree to discuss particularly because our Constituent Assembly has now undertaken the task seriously to draft the Constitution and these questions are bound to arise there soon. We are thus faced with the position to express our minds soon on these issues before the Constituent Assembly. As we formulate our views on Citizenship and Supreme Court etc. it will be better not to be in confide with corresponding provisions of the Indian Constitution on these points, Sir, I think that I have clearly said that we had discussions in that spirit alone.

Another objection that has been raised in this House relates to Article 370. It is said that if under Article 370 we acceded to India, it shows that we had agreed on only three subjects i.e. Defence, Communications and External Affairs and why we are now twisting Article 370. We are being told that Article 370 is a transitional Article, a temporary provision and we are told publicly that in due course of time this Article 370 will disappear and with it will disappear special position that the Assembly and Parliament of India has conceded to Kashmir. I may inform the House that this issue did come under discussion at Delhi and we denied that position outright.

☛ **Note:-** At this stage the Vice-President of Indian Union, Dr. Radha Krishanan, also made his appearance in the Assembly Chamber and took his seat in the President's Gallery amidst prolonged cheers.

Hon'ble M.A. Beg (continued):- Mr. President, I was dealing with the point that objection has been raised in regard to temporary character of Article of 370. I said that good-deal of criticism was leveled in both Houses of the Parliament of India in and outside Press in regard to intention of Article 370 that it is a temporary Article and the special position of Kashmir ipso facto is of a temporary nature. This raised doubts and suspicions not only in the minds of the people of the State but also in the minds of our Hon'ble colleagues sitting in this House. About our relationship with India Kashmir had peculiar position in 1947 as it has now. That peculiar position is a permanent character of the State. It will be unfair to say that this position is of a temporary nature. Statements have been made that in due course of time Article 370 will cease to exist and thus Kashmir is bound to become Part B State. Expressions like these have in fact given rise to the amendments proposed by the Hon'ble members to the statements of the Leader of the House. Some of these amendments are critical and some are unfriendly but let me say that the main reason for proposing such amendments is that criticism which was expressed in the Parliament, and by others afterwards. Nobody here could entertain the idea that Kashmir will be dragged to the position of a Part B State. I may make it clear on the floor of this House that Kashmir will never come to the position of a Part B State. We have good reasons for that. We admit that Article 370 is a temporary one. But in what sense of the term ? Let me tell this House that when this Article was being framed the title and heading was never suggested to us and in fact we do not bother for this. We made this clear to the representatives of the Government of India that the temporary character of Article 370 is explained by the fact that the Kashmir Constituent Assembly which has been charged with the task of framing the Constitution and this power is recognized by Article 370, is in the process of framing the same. So long as it is not completed, Article 370 will remain there and when it reaches completion, we shall give to Pal what is Pal's and to Peter what is Peter's. That is centre will

have the acceded subject and the rest will remain here. Article 370 will have to be accordingly altered. It would not mean that the Kashmir State will cease to have its special position. Amending Article 370 may be necessary at the time when we finalize our Constitution. But even then, legally Constitution, as it cannot in any way rob Kashmir of its special privilege and position, given to it by common agreement. Article 370 is therefore temporary till we complete our Constitution. Therefore its spirit will be incorporated in that Constitution. Therefore, I beg of the Hon'ble Members of this House to give up all doubts and misunderstandings. The delegation has not given any other interpretation of Article 370 and in fact none other ever existed in our mind. Whatever special position has been granted to us has been conceded once for all. Sir, a good-deal of discussion has taken place in regard to special position of the Kashmir State. I consider these three points i.e. Article 370, the question of special position of Kashmir and the question of Residuary Sovereignty were also the main issues under discussion at Delhi. All these three points are allied if not identical. Therefore, I shall deal with them accordingly.

Why was a special position granted to Kashmir ? It is because of its special character and the struggle for freedom which the people of Kashmir have led. Kashmir let me say, is the only State with this composition of population which chose voluntarily to accede to India and we are happy about it (Cheers). This is the first reason. Secondly, Kashmir has a strong popular movement behind it for which it fought for 21 years. That movement was for the establishment of communal harmony and welfare of the masses. Kashmir has before a definite socio-economic programme of its own. As an Hon'ble Member of this House has said, it is with a view to implement that programme that we acceded to India and we maintain special position. In order to implement that programme by common consent and agreement during the time of Sardar Patel and other leaders of India, special position was given to us. Therefore, any question of having given this special position to us for a temporary period does not arise. It was never given to us because our question is hanging fire in the U.N.O. or Because Pakistan put forward its right over Kashmir but because of the reason I have

mentioned. It is a special position and taking it away will clearly be betraying the people of Kashmir. We made our mind clear to India and I am glad it was understood by the Indian Government. Hon'ble Members of this House have expressed their doubts as regards the Residuary Powers. Why should there be any doubts in this behalf? Pakistan was banging at our doors but we kicked it. Why did, we do so ? Certainly not because they are Muslims, certainly also not because they are our neighbours, certainly not because their country is smaller than the Indian Union; but certainly because they wanted to dominate over us. They wanted to exploit us and we stood against domination and exploitation. We resisted their domination and successfully resisted. It is therefore correct, if we say that we cannot accept a position in which there is a gradual, constant and continuous encroachment on our Residuary Sovereignty. Come from whatever side it may it will not be fair. One of my friends has said that accession depends on perfect autonomy. It is weakened if autonomy is restricted. Another friend has said decentralization is the perfect union and centralization operates in the opposite direction. To my mind Union list and the Residuary Sovereignty are the two sides of a scale. Lighter the one the heavier will be the other. Lighter the Union list, heavier will be Residuary Sovereignty and lighter the Residuary Sovereignty, heavier will be the Union List. Federation means Union of Constituent parts on the basis of free and voluntary association. After our accession when special position was granted to Kashmir, it was agreed that Kashmir will be free in rest of the matters. We mean to retain this special position and we defend it. Some critics pounce upon us. They even sometime ; say here are the people who in their minds have decided to go to Pakistan. If we wished to go to Pakistan we could. We have not refused to go to Pakistan because of any temptations from India or because of some such things. Let me refer to a few remarks reported to have been made by Mr. Rajagopalacharya. the Chief Minister, Madras and by Chief Minister of Mysore. Mr. Rajagopalacharya perhaps faced with difficult position said, that he wants more funds and greater autonomy for Madras and will demand more funds and autonomy from centre and in fighting that battle for his State will join hands with any group that would

enable him to secure what he demanded. Mr. Rajagopalacharya was a right hand man of Gandhiji and so he is of Pt. Jawahar Lal Nehru. Nobody could say that he would join Pakistan. But I do not know what will happen in the press if we express even part of what he said. Similarly the Chief Minister of Mysore said that the Financial Integration system of the Union has crippled us. It is crushing and we cannot stand by it. But if I say so, critics will say that I have decided to go to Pakistan. I may say, I sincerely endorse the observation of these statesmen who have got experience of running administration. Such a financial integration will not bait us into surrender of more and more to the Union because India will give us more-money. We should not think in terms only of annas, and plus that we may get from India but we are required to examine this question with a view to see as to how far financially and administratively it will suit us and benefit us.

The Constitution of India thus, has number of provisions unsuitable to our conditions. Some are too rigid and some in sort of conflict with our views regarding growth of society on the lines of New Kashmir. We want a free Constitutional set up which will guarantee our growth on those lines and strict application of the provisions of Union Constitution will not suit us. This Constitution is the result of the labours of all shades of opinion in the country. The Constituent Assembly of India which was convened when the British had still power over the Country had within its folds all manner and types of persons. It was not a normal combination of the major views in the country like a Mumbo Jumbo of various views. Had the Constitution been the exclusive result of the efforts of Congress, things would be different. Congress lead the struggle and had its own ideals which could be reflected exclusively in the Constitution. But such is not the case. Look at the approach to the vital question like removal of untouchability. My own opinion is the approach, that the Union Constitution makes to this question will not be effective enough to secure the much needed result Suppression of the course of untouchability was the creed of Congress and considering the keenness of the Congress to secure this end. The Constitution should have provided more or less a ruthless remedy. That is not so and even if we ask some of the Congress Members themselves. I am sure they will agree

with us. Thus the Union Constitution is an attempt to accommodate all manner of views within its provisions, some at variance and others at conflict with each other. The total result may not be all together happy. Here is this Constituent Assembly we represent the overwhelming majority of the country, an organization that lead the battle for freedom of the country which has a set goal and programme before it, and has fought for that programme. Let this Organization as represented in this House shape its Constitutions so as to guarantee implementation of the socio-economic programme adumbrated in New Kashmir. We want to be left un-fettered to achieve, that object within the frame work of India and that is our aspiration. Let none stand in our way.

Let me proceed Sir, "to the next-point. As regards these Delhi talks, there are about ten points mentioned in the statement of the Leader of the House. All these points are not air those in which we have reached final agreement. For example points like citizenship, Flag, Hereditary Rulership, Conduct of election to Houses of Parliament, Residuary etc. We have agreed to certain principles in regard to some-points and in regard to other points. We have said that these matters require further, examination and more serious consideration. As regards Citizenship and Flag, the Hon'ble Leader of the House has made it clear as to what has been our attitude in arriving at the agreement.

There should be no difficulty for the Hon'ble Members of this House to accord their approval to these points. You decided to end the Hereditary Rule in the State. You charged us to make proposals regarding implementation of this principle of our constitutional programme. It was necessary in this connection to propose certain amendments in the Indian Constitution and the Union Government have agreed to this. There should be, therefore, no difficulty in according your approval to the agreement arrived at. There are provisions relating to the President's powers about reprieve and commutation of death sentences. There should be no difficulty about that too. There are Residuary Powers. I have at length discussed that Mention has been made in the Parliament of India in regard to these issues and the instrument of accession. We have repeatedly affirmed, that we are there on the basis of instrument of

accession and on no other basis. We have said if we like to give more powers we shall give more powers to the Union Government and if we do not like we cannot be compelled. Princes of various States also acceded to Union on the basis of their respective instruments of accession; although of course they gradually surrendered more and more powers to the Centre. Recently I read an article by Mr. V.P. Menon who was Secretary of Ministry of State at the time when these princes were accorded to India. He calls it great achievement that unification of India was brought about like that. In regard to the accession he said that the princes were asked to accede to Union in three subjects viz. Defence Communications and External Affairs subject to assurance that in all other matters the rulers would retain status-quo. With the accession there was to be no encroachment on the autonomy of the States.

We are told, that India is to administer all the three subjects involving heavy expenditure and we are not prepared to surrender anything on our part. We are sometimes told when India undertakes such heavy expenditure for Kashmir. Kashmir on the other hand does not undertake the obligation to part with anything for the benefit of the Centre. Sardar Patel, the great builder and consolatory of India, was represented in Mr. Menon when large number of princes-were acceding to India, He says regarding the basis I have referred to just now, that accession in three subjects involved no financial liability on the States. But now sometimes we are told that we are a great drain on the resources of India, was suck away Indians resources and like parasites cling to that-big power utilizing its revenue for our defence. This is not the correct stand and-India had of her free-will accepted accession of three subjects only, leaving it open to the Constituent State to accede or not to accede to the Centre in regard to the rest. We cannot now be told. "Oh it is one way traffic". Allow me, Sir to deal, with one or two points more. Mr. Ghulam Rasool and some, other Hon'ble Members criticized that we had agreed to application of Article 352 of the Union Constitution. These are Emergency provisions. Other members fell in line with them. For the information of the House I may read out the provisions of Article 352.

"352. (1) If the President is satisfied that a grave emergency exists whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may by Proclamation, make declaration, to that effect,

- (2) a Proclamation issued under clause (1)
- (a) may be revoked by a subsequent Proclamation,
- (b) shall be laid before each House of Parliament
- (c) shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:-

Provided that if any such Proclamation is issued at a time When the House of the People has been dissolved or the dissolution of the House of people takes place during the period of two months referred to in the sub clause (c) and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the people first sits after its reconstitution unless before the expiration of the said period of thirty day a resolution approving the Proclamation has been also passed by the House of the People.

(3) A Proclamation of Emergency declaring that the security of India by any part of the territory thereof is threatened war or by external aggression or by internal disturbance may be made before the actual occurrence of war or of any such aggression of disturbance if the President is satisfied that there is imminent danger thereof.

If the President is satisfied that grave, emergency has arisen whereby the security of India or any part of the territory thereof is threatened with the danger of war or external aggression or internal disturbances, he may by powers vested in him make a declaration about the state of emergency. This Article gives power to the Union President to make a declaration of emergency etc. and he can make a declaration to that effect on three grounds.

The first is that there is invasion of any part of the territory, second is that there is grave threat of war; and third is that there is internal disturbance. All or any of these causes leading to conditions whereby the security of India or any part of the territory of India is threatened; when the President comes to that conclusion he makes a declaration that state of emergency prevails in certain part of India, then he assumed authority himself of that part of the Country, or its executive powers or gives directive to the Executive of the Country, in case such an emergency arises, he can suspend the State authorities, and can direct certain action being taken in that State. The Hon'ble Member was critical about these power's, his main criticism was that we agreed if there is invasion, if there is threat of war then the-Union President can declare the State of Emergency, but in case if internal disturbances such a declaration can be made only at the request of the State Government. If the declaration proceeds on the basis of invasion or threat of war to the territory of India the Union President can act independently, but if the, declaration relates to emergency on the basis of internal disturbance, then he can act only at the requestor with the concurrence of the State Government. These actually are the terms of the Agreement and we stick to these terms.

Now Mr. Ghulam Rasool's attack was based on the fact that as we have acceded in Defence, under Schedule 7 entry I, all these contingencies can be met easily, then why have recourse to Article 352.1 may admit, Sir, 1 in a sense, concede this position. Item 1 is Defence of India and every part thereof. This is an item which appears in the Union List. Parliament can legislate on this point and under this item it can pass a law regarding preparation for Defence and such other acts as are necessary for successful prosecution of war. Then a situation like invasion, aggression or threat of war, can be dealt with under this entry. If Union can take such an action, why has Article 352 been applied. To that objection I may answer that we discussed that view threadbare with the Government of India. Legal objection was taken to our view and to views expressed by Mr. Ghulam Rasool. It was said that Article 352 gives the President powers to act in emergency swiftly and quickly to deal with a situation. Item 1

gives powers to Parliament to legislate which is a long process and useless for meeting an emergency. So the President wants something to quickly deal with such an emergency and put it down before some mischief is done. We also said that the President's powers are coextensive with legislative power. However, we believe that legal objection, prevails as pointed out by Government of India, Accepting that legal position we gave agreement to that provision as I just explained.

Now, Mr. Ghulam Rasool's second criticism is that if it were so, a person—no less than the Defence Minister of India has himself said during debate in the Council of States. Were the objection related to the restriction placed by the rider on President's powers to act in the¹ case of internal disturbance only when he was requested to do so by the State Government. According to the Hon'ble Defence Minister of India, this restriction placed by that rider can be got round by making a suitable law under item I schedule 7, Let me tell the Hon'ble Member and the House at once that it was never in our minds when we agreed to application of Article 352. Never, never it occurred to us and we never thought that it can be possible to do it. However, we have not given our agreement to apply Emergency Powers in the case of Internal Disturbance without our consent in any sense or circumstances. We have not given our agreement on the basis that it can be got circumvented under item I of schedule 7. We have a definite opinion that the President of India should not act in the case of Internal disturbance and declare a state of emergency without our request, and we will not be a party to any such act by which it can be circumvented. Let me not discuss the reports that have reached here in this behalf whether they are correct or accurate. I cannot say that but let me make a clear statement that we have agreed to application of section 352 in that sense alone. I hope that with this assurance the Hon'ble Member will drop his amendment put before this House on those points.

Another amendment is regarding Hereditary Rulership that the Head of the State can hold office during the pleasure of the Union President. We have agreed to that let me say that "pleasure" of the Union President is a constitutional

"pleasure" and riot, an arbitrary and undemocratic pleasure. This is not a pleasure unknown to Constitutional Law. Governors and Ministers hold office during the pleasure of the President but that pleasure is exercisable on the basis of confidence or no-confidence of the House. Word "Pleasure" in that sense we have accepted. President of India, who is constitutional authority, a President elected to that high office through democratic process, a President responsible in every sense of the term cannot exercise that "pleasure" except in the constitutional sense of the term. I have no doubt about that and I hope this explanation will dispel doubts of the Hon'ble Member who has given an amendment on that point.

I think, Sir, that as regards other points, I need not take much time of the House. Fundamental rights and Flag have been more than sufficiently explained in the statement of the Leader of the House now and before. Who can say that the Union Flag has a distinctive position in the State and that we do not owe allegiance to it? At any rate it has occurred to the minds of the members of the House. We have of course said that as regards our own. Flag, it has history behind it—a history of struggle for the great cause which has received inspiration from great and top most leaders of India. Our position was conceded by the Government of India and it was -agreed that the resolution on flag passed by the Constituent Assembly shall stand. As I have already said the Union, Flag shall have the same distinctive position of honour in our State which it has throughout India. Mr. President I think I have practically done. It only remains to add that this House should rest be assured that we shall defend the special position of this State. We shall defend its Residuary sovereignty and its socio-economic plan. Let me assure the House that this cause is dearer to the great architect of our future i. e. the Leader of the House, and he will spare no sacrifice to defend that cause. We will defend the special position of Kashmir to the last. There is no question of this special position being a temporary nature. We have, however, arrived at certain understanding and it is for this House to give its approval to it. But let me plead with this House that the agreement has been arrived at with careful consideration keeping in view that high ideal which has always been

before us all. I believe that the House will accord its approval to the agreement and that approval will come quite willingly, voluntarily and sincerely from the members of this House. Thank you. Sir.

Syed Ibrahim Shah: Sir, the agreement arrived at recently between India and Kashmir, and the victory, won by the people of Jammu and Kashmir over the reactionary forces, has been welcomed here by thousands of freedom loving people.

Before I express my opinion about this agreement, I want to make this fact clear that the reactionaries were bewildered by this agreement and after having failed once, are again trying their utmost to hinder our progress.

The Government of India has agreed to the abolition of hereditary rulership and have accepted our right of self-determination in internal matters. By upholding the right to self-determination of the people of the State, the Hon'ble Leader of the House has dealt a severe blow to the mischievous imperialists, who are opposed to the real unity of the State. Those who raise the slogan of the partition of the State on the basis of existence of different races in the State, serve the nefarious designs of the Imperialists, But the pity is that this slogan is being raised in the name of national freedom. In whatever shape or form this slogan is raised, the freedom loving people of the State are not ignorant of the fact that this is being done by the imperialists and communalists against whom the people of the State have fought under the leadership of National Conference. The reactionary Jagirdars and the royal stooges of Jammu are trying to mislead the people in the name of National Freedom, These quixotic persons distort the holy principle of self-determination. They argue that the people of Ladakh and Jammu must try to separate themselves from rest of the State so that the Centre may be strengthened. But this anti-democratic slogan is nothing but a proof of political bankruptcy. It is unfortunate that some simple minded people of Ladakh were also lead astray by this dangerous and misleading propaganda. But the shattering blow to this conspiracy was dealt by the Delhi agreement wherein the basic decision of our Legislative Assembly have been admitted. But it is feared that the reactionaries and communalists may not show dissension amongst the

ranks of the people by exploiting their so-called genuine grievances and may not use them as their tools. Hence there is a pressing need that the Hon'ble Leader and other Hon'ble Members of the House must take immediate and right steps to solve the basic and the genuine grievances, and satisfy their demands, I think that only the united efforts of people of the State can give a practical shape to those dreams which have been mirrored in Naya Kashmir. I thank that the Quaid-i-Azam, Sher-i-Kashmir knows about the conspiracies of the communalists and imperialist elements and I hope that he will continue his efforts in giving a right lead to the people. I assure him that the people of Kargil are always at his back and, call.

Mr. Baghat Chajju Ram: Sir, I also, want to speak a few words about the statement made in this House by the Leader of the House regarding the Delhi Agreement which is under discussion. I find that the talks held in connection with Delhi Agreement are full of the Gandhian spirit. I know that it is the people who frame the Constitution. We find today that the people of Kashmir and India, who had been ruined by the old system, are enthused with a new spirit. How can the peasants and labourers, forming 96% of the population of India and Kashmir tolerate opposition of the programme envisaged in 'Naya Kashmir' They cannot tolerate that any harm is done to the programme of 'Naya Kashmir' perhaps those who are bewildered by this agreement, want to revive the old system for their own benefit. I would like to say that the labourers and peasants would not differ it. They would never allow anything that goes to end their freedom. Under the present system we have full freedom to devise ways and means for bettering the conditions of 40 lac people of this place. The programme, which we have before us, can be given practical shape only when we follow 'Naya Kashmir' which is the fruit of our sacrifices. All sorts of rumours are spread by communalists and other people. They do it with the object of reviving old regime. They harbor evil designs and it is therefore that they try to mislead the people. In this connection I would like to quote an instance from the life of Prophet Muhammad (S.A.W). It happened that a man came to him and said that all the world seemed to him to be dishonest. The Holy Prophet replied that was so.

Then another person came and said that half of the world seemed to be dishonest. The Holy Prophet again said that was so. Then another person came and said that he thought the world to be honest. He also received the same reply. The people who were sitting round the Holy Prophet at that time, enquired as to how those three conflicting statements could be correct. Then the Holy Prophet said that first person, who said the whole was dishonest, meant that he himself was dishonest. Similarly, the second person who said that half of the world was dishonest and the third person who said that the world was honest, only revealed their own-selves, respectively. I would submit that those who spread false rumours, want to see communalism established. In reality, as I have said before, this agreement fulfills Gandhian Ideals.

Hon'ble President: The House adjourns now. We will again meet here at half past two.

Note: The House then rose for lunch.

After Lunch

Mr. Chhajju Ram: Sir, I was saying that I would like to ask those persons to search their own hearts who have any doubts in their minds about the Delhi agreement. I would like to ask those who favour complete accession with India whether it is not due to them that crores of people are suffering from poverty in India. They want to live as Capitalists, possessing hundreds of kanals of land and having grand palaces to reside in. Quite opposite is the case of an Indian labourer who feels fed up with his life. But such a state of affairs cannot be tolerated now. What they mean by complete accession is that they want to see an end of the Land Reforms Act passed by us through which we have distributed the lands among the tillers. Instead of ameliorating their condition of life they want that the poor people should continue in the same miserable plight as before. Today, if some person constructs a well or a pond at his own expense he reserves it for his personal use and allows nobody else especially a Harijan, to fetch water from it. This sort of provision exists in the constitution of India. But we cannot measure social conditions in terms of money. We are of the opinion that

the people are being ruined by communalism. Those selfish people are the traitors of their country if out of their own selfishness, they chosen to forget, the happenings, which took place due to the communalistic ideology. I would like to remind these that we will face the forces which have led to the disastrous results in India and would not allow communalism to succeed in future. People are leading a life of object misery and hardship due to those very forces that culminated in the division of India. Sir, I submit that the Constitution of the country should be of such a nature as to enable the residents of that country to led a life of freedom and ensure an equal status for everybody. Sir, we see that these Communal Parties raise their voices in support of the separation of Jammu and Ladakh from the State. The Communalists of Jammu try to separate Jammu on the ground that it is populated by a majority of Hindus. But they suffer from a delusion and if they give up their selfishness and see the things in their true perspective, they will find that they have only 10% followers. Three and a half lac Harijans in Jammu province, for the first time in their life, see a ray of light. They have been given an equal status with the rest of the population by the popular Government. Sir, the agreement which has taken place between Kashmir and India, is based on the principle of love for which Gandhiji gave his life. Hence I am confident that this agreement which has received praise from all the quarters would not be affected in the least by any opposition, which might be shown to it by the people of conservative views. The alliance of Kashmir with India is not alliance of an individual, but is an expression of the sentiments of 40 lac people of the State. The people of the State have understood that they can enjoy full rights in this country and so want to lead the country towards progress. Hence, I think that the opposition of these few people would not have any adverse effect. With these few words I support this Statement and after congratulating the Leader of the House bring my speech close.

Mr. Moti Ram Baigra: Sir, it is the second day of discussion on the detailed statement of the Leader of the House. There is nothing new as it deals with the same matters which have been continuously repeated for the last five years and on the basis of which, Kashmir acceded to India. Some friend have put forward

certain amendments and expressed some apprehensions. I would like to tell them that the people of Kashmir are very simple, good at heart, honest, in their outlook and above suspicion. This is the question of self-respect and other people have got no right to view these facts otherwise. Perhaps these friends are afraid that this too, might prove to be another Treaty of Amritsar. But, if we try to think about it dispassionately, we will come to know that this is an alliance between the people of Kashmir and the people of India, and not a treaty drawn up by a single individual like the Treaty of Amritsar, where one imperial made an agreement with another and in this way, subjected 40 lac of people to slavery. Hence it could not last for long. My friends have shed sufficient light on the reaction in India. When we met in a session of this Assembly at Jammu we decided an important issue about land declaring that no compensation should be paid to Jagirdars and big landlords. The reactions of Indian communalists reached its highest pitch. We could very well guess the way they would exploit the masses, and our forecast proved to be true. The people were exploited by misleading statements. Today's we are taking another step and are going to abolish the hereditary rule in the State, It is sure to cause a reaction. Meetings are being organized at Jammu by Praja Parishad and some friends from Indian Parliament who have been invited, to participate are making statements in Delhi, Dr. Shavma Prashad Mukerjee, as the House is aware, said that it was proper to abolish hereditary monarchy but it would have been better to start this abolition with Hyderabad first. On behalf of this House, I would say that it was better for him to go to Hyderabad and raise these slogans there and mobilize and rouse the masses there. But he has instead come over to Jammu and raised these slogans against Hyderabad. Reactionaries may put forward various excuse but the masses here are awake now and understand the meaning of their slogans fully.

It is also said that even if Kashmir wants to remain like this. Ladakh and Jammu want to have permanent accession with India. Let these two areas accede permanently, leaving Kashmir alone Sir, I think it is just the same thing as Macnaughton Formula. It has been stated therein that those areas, which want to

remain with India, should be given over to her; those that want to remain with Pakistan should be given to Pakistan, and the referendum should be held in disputed areas only. But late Mr. Patel clearly enunciated that it was absolutely unacceptable to them and as a result, this formula was buried at its very birth. As far as the Jammu people are concerned, I would submit Sir, that they are not at all against progressive programme. But they are facing certain difficulties, certain hindrances which are being exploited western interests, reactionaries and Jagridars. Besides Jammu has been neglected in certain respects. Some people ask as stated by Hon'ble Mr. Ram Piara Saraf, that when we have chosen our Flag and when we have seen the new Flag flying over the Hon'ble Prime Minister's office on the next day of the decision of this House in this behalf, how is it that the National Flag has not been hoisted so far at Jammu. Why this difference? As far as National Conference is concerned, she has presented a flag before the masses and declared that she will hoist this flag only because this the National Flag of 40 Lac people of the State. This is the flag which will put an end to the hardship of the people and all of us want to see it flying with befitting honour at every place. The reactionary forces ask as to what for is the presence of the UN observers needed in the State. Why are they allowed to go sometimes to Rawalpindi and sometimes to Sialkot, by direct routes without any objection in spite of the fact the problem of our country is a complicated one. We know nothing of their movements. It is impossible to expect any good from them. So far as the people of Kashmir are concerned, they have fought against heavy odds. Anti-Kashmir elements within and outside the state include Rajas, Maharajas, Jagirdars, big Capitalists, reactionaries and exploits supported by a large section of the press. But not caring in the least for these elements we have to give a practical shape to our decisions by the help of popular support. Kashmir has exceeded to India only in three subjects. There is nothing in this statement of the Leader of the House which merits opposition. Supporting the resolution I would request the Leader of the House that if the problem of financial integration is going to solve our economic problem, it should be concluded in the best possible manner. If the Indian Army is still here, it is because the people have sought its

protection. It has maintained the Gandhian ideals and it would remain here as long as the Kashmiri people want it to stay. However, those matters which have been decided, have nothing confusing in them and must be given a practical shape as soon as possible.

Hon'ble Girdhari Lal Dogra: Sir, the statement which is now under the consideration of the House, is not an isolated thing of sudden growth. It is a product of the continuous development of the circumstances since 1931. It is a result of the sacrifices offered by the Martyrs for the emancipation of this country. In order to understand this statement and its consequences it is necessary to survey the events responsible for bringing it into existence. The opposition came into being since the very inception of the popular movement and it took up changing roles on the stage. Some people amongst the opposition were no doubt sincere, and thus we were able to convince them at times. Some amongst the opposition who feared that the flood of our movement prove harmful to their particular interests, tried to enter into our ranks and strengthen the enemy from within attacked us in different ways. Today also, we see that some amongst them are our friends while the others are opposed to us. The latter try to instigate the people within and outside the State against us. We cannot reach any definite decision till we study these circumstances carefully, and see whether this agreement between India and Kashmir is beneficial or not. We should try to study the agreement. As I have already submitted, we were opposed in 1931 and also afterwards when the National Conference came into being. During the days of "Quit Kashmir" attempt was made to present this movement in a perverted form. Afterwards, when our State was raided and the people united to save, their honour," they again tried to give a wrong colour to our movement, Reactionaries, communalists and Jagirdars are our enemies. They oppose us and attribute certain things to us without any semblance of truth. But we are not going to be discouraged by these tactics. We face them and although we are dealing them a final blow through the Constituent Assembly, they are still trying to create fuss. Not only the communalists and Jagirdars of this place are their stooges but they have also some agents in India too. But, cannot we face them ? I would submit

that we have always faced them, and will continue to do so again with the help of the progressive-minded people of the world who are at our back. Reactionary people will be finished. As already stated by Hon'ble Mr. Beg Praja Parishad leaders and their satellites called a convention at Jammu. It is said that they tried to collect all their forces. It must not be forgotten that in Praja Parishad we have those very communalists who fanned the communal hatred at the time when the country was raided. Praja Parishadis are communalists in reality. They were not moved at the time when India was partitioned and "the Punjab was divided into two parts, western and Eastern. Rather did they help those people who fled from West Punjab and reached Jammu. They did not create any disturbance at that time. But the moment our country was invaded these people started communal disturbances. These communalists and the Pakistanis are chips of old block and are playing to the tune of the same piper. If they were communalists in the true sense their blood would have boiled when the Hindus fled from West Punjab into the territory of the State. But they created disturbances when peace had completely been restored; they created confusion and instigated some reactionaries and Jagirdars against us. Finding that the masses here were not willing to become tools in their hands, they went to India and tried to win over the sympathies of Indian people. Consequently, Dr. Shyama Prasad Mukerjee joined hands with them which shows that the national party formed by him is not national in character in the true sense of the term but is a party of Rajas and Maharajas who had been inflicting tyrannies upon people through their lives. They later have this power now. They are the same communalists who caused the death of Mahatma Gandhi, but saying so today they insult the one nation theory of India. Praja Parishad element is allying itself with the traitors of India, and most of what is being against us today is being propagated by these very communalists. But while giving our decision regarding India, we must not take into account these people only. Amongst crores of Indians, we find traitors as well as honest gentlemen. We should not form our opinion about the general mentality of the Indian people by the actions of these few communalists. But the stooges hailing from Jammu declare their unwillingness to accept anything so

long as they do not come to know of the true spirit underlying the statement. I would remind these people whether they be within or outside the state of some established facts. Perhaps some of the Hon'ble members do not know as what has been the role of Dr. Shayma Prashad Mukerji in the past. At the very inception of Congress Organization the Britishers tried strangulate it. It was due to their efforts that the Muslim League came into being. With the ultimate object of sowing discussion among the Hindus they formed the Hindu Maha Saba. Realizing that the Indians were not communal- minded, they made one more attempt by way of forming Krishak Paraja Party. When the idea of dividing India occurred to the English mind, they tried to find some stooge in the Punjab and Bengal. We all know as to what was the role of Dr. Shayma Prashad Mukerji at that time. In the days of famine in Bengal, Shayma Prashad Mukerji happened to be the Finance Minister there. The role he played in this capacity is hidden from none and I think that it needs no repetition. Dr. Shayma Prashad Mukerji is responsible for the division of Bengal. Even today the people of Bengal want that their motherland should be reunited. Not being satisfied with the division of Bengal, he has come here to divide our State and that too on the basis of two-nation theory. This is his unholy design and he wants us to play into his hands and become tools of his provocation. Mr. Mukerji is playing the same game which is being played by the reactionary elements of the whole world. Mr. Mukerji has launched this crusade against us in support of the vested interests. The House has to be consider carefully whether the people who are creating all this fuss have any real cause to do so or whether they are just the remnants of our old and;

Hon'ble Pt. S. L Saraf:- Hon'ble Beg has thrown ample light on the motion before this House in his explanatory speech. So there is no room left for me to make any addition to it. My submission is, therefore, that the Bill be taken into consideration and further action be taken next day.

***Hon'ble Piar Singh :** Sir. I want to make a slight amendment to the amendment Bill introduced today by Hon'ble M. A. Beg. This amendment pertains to the

phraseology of the **Bill**. Under Constitution Act 1996 laws were enacted here in the form as for instance we find in the preamble or the old Constitution Act:

"We are hereby pleased to enact".

Now that regime is at end and new Constitution is being framed, it is essential that in consonance with the need of times these words be deleted and the words "it is hereby enacted as follows", be substituted. Thus the existing clause 2 will be clause (a).

***Mr Assad Ullah Mir** : Sir, the amendment proposed by the Hon'ble Member pertains to Constitution Act. 1996, and not to Jammu and Kashmir Constitution Amendment Act. 2009. A perusal of it shows that the amendment is purported to amend the original Constitution Act and not the Bill. I have seen clause 2 which reads "It shall come into force on the 7th November, 1952". Thus the amendment is not legally valid. What the Hon'ble Member has referred to that for the words "We are hereby pleased to exact as follows", the words, "It is hereby enacted as follows", be substituted. There are no such words in the Bill which have been placed before the House. Sir, my submission is that I have read clause (2) of the Bill and this amendment is sought in the Constitution Act of 1996, and not in the present Bill which is entitled as Constitution Amendment Bill 2009. So my request is that the Hon'ble Member may withdraw his amendment.

Hon'ble President:- I am afraid that the Hon'ble Member cannot move even an amendment at this stage. In this connection I refer him to Rules 66 of the Rules of Business and Procedure of the Constituent Assembly, under which any member can object to the moving of in amendment at this stage.

Hon'ble M.A. Beg:- Sir, this is perfectly right since the chair called upon him therefore, the Hon'ble Member complied.

Hon'ble President: The question is that the Bill further to amend the Jammu and Kashmir Constitution Act. be taken into consideration.

☛ **Note:-** The motion was adopted unanimously.

Hon'ble Piar Singh : Sir, I want to withdraw the amendment proposed by me.

Mr. Assad Ullah Mir : Sir, as the amendment has been moved by the Hon'ble Member, it has now become the property of the House. It is now for the House to give permission for the withdrawal of the amendment.

***Hon'ble Mubarik Shah :** While seconding this suggestion I beg to submit that now that this House has supplanted the Maharaja as far as the making of Legislation is concerned, the words in the Constitution Act, namely : "We are hereby pleased to enact as follows", be substituted by the words, "it is hereby enacted as follow". It is therefore requested that this amendment be allowed.

Hon'ble D. P Dhar : Sir, this regular amendment to clause does not really refer to clause 2 of the amendment Bill. It is an amendment to the preamble of the Constitution Act of 1996 and my Hon'ble friend Mr. Mir Sahib says that this amendment should have been made to the preamble of the Constitution Act formed in 1996 rather than to the clause of the amending Bill. The preamble of the Constitution Act reads thus:—

"Whereas it is expedient to consolidate and amend the law relating to the Government of Jammu and Kashmir we are hereby pleased to enact as follows". If you pursue this particular amendment. Sir, it reads for the words: "We are hereby pleased to enact" the words: "It is hereby enacted....."should be substituted in the preamble to the Jammu and Kashmir Constitution Act. 1996 hereinafter called as the Act. And if this amendment is allowed to proceed in the form in which it has presented in this House the position becomes somewhat ridiculous, because the amendment of the preamble will come after clause I. "As a matter of fact the preamble should precede the clause and then comes clause 2 of the Constitution Act. If the amendment is accepted it should precede clause 1 and clause 2 should be read as 2 (a) in the second amendment presented by Major Piara Singh.

Constitutional Adviser: (Hon'ble M.A.Shahmiri) May I, assure the Hon'ble Members that draft amendment has been presented in a very proper form. We had to amend the Constitution Act by an amending Bill and in an amending Bill the first thing that has got to be stated is that this Act may be called as "The

Jammu and Kashmir Constitution Amending Act" and "it shall come into force on the 17th of November, 1952."

Mr. Ghulam Rasool Renzoo:- Sir, is the Constitutional Adviser authorized to address the House?

(Note : The Constitutional Adviser continued his speech).

Constitutional Advisor : It is only after this clause has been put in that it can be placed in the Act. Now what we are doing : We are arranging the preamble first and how we do it we are removing clause 2 from its place and instead of that we are placing another clause and thus we are doing it. The first thing to be done will be that in the preamble of the Jammu and Kashmir Constitution Act of 1996 hereinafter referred to as the said Act. "It is hereby enacted" shall be substituted. This is the first thing and after the preamble comes clause 2. (There is no other way by which it can be done. I may assure my Hon'ble friend that this is perfectly correct.

S. Harbans Singh Azad:- May I know, Sir, under what rules can we allow the Constitutional Adviser to address the House ?

Hon'ble President:- The Constitutional Adviser is the Constitutional Adviser of the Assembly and if sometimes any point or Constitutional issue arises in the House, he is perfectly authorized to clear it and express his opinion. Otherwise there is no use of his sitting in the House.

Hon'ble D. P. Dhar:- In reply to the observations made by the Constitutional Adviser, the assurance that he has given to me is perfectly valued. But this assurance is to be carried ahead. With me the position remains, as I stated a while ago is unchanged. In spite to the observations made by the Constitutional Adviser, Clause I of the amended Act will read first and the preamble will read after and that makes the position funny. No Act begins with the specific clause 1, and then the second clause defined as the preamble. This is a novel method of amending an Act or putting right certain mistakes which have been committed in the actual drafting of the Act which makes the finished document a subject of ridicule. The question is that as far as the amending Bill is concerned. I agree that the omissions ought to be somehow remedied. The remedy that has been

provided perhaps satisfies that particular Act, but something more is to be done purely from the point of view giving a correct form to the Act. I would suggest that the Constitutional Adviser should apply his mind to the necessity of curing this difficulty namely the preamble following clause 1.

Constitutional Advisor: Amendment to the preamble must follow class 1. After the proposed amendment has been adopted, the effect will be that clause 1 will come as "Short title and Commencement", and then will come the new clause 2. This is not a preamble, but an amendment to the preamble of the Act and will appear as new clause 2 (a). The final document will read like this. "This Act may be called the Jammu and Kashmir Constitution Amendment Act, 2009". Then will come clause 2 and then clause 2 and then clause 2 (a) ; and the so-called defects will have no reality.

***Mr. Assad Ullah Mir :** Sir, I mean something else. The amendment moved by Major Piara Singh probably pertains to Jammu and Kashmir Constitution Amendment Bill. From a perusal of clause 2 of the present amendment Bill, a sort of difference becomes evident. This amendment, as a matter of fact, pertains to Constitution Act, 1996 and not to the Bill before us. My submission, therefore, is that the form in which the Hon'ble Mover has presented it is not acceptable. The meaning of the wording of the amendment differs from what he aims at. In fact, amendment to amending Bill ought to have been proposed instead of amendment to the Constitution Act. 1996. My submission, therefore, is that the amendment be brought in proper form and placed before the House.

Hon'ble M. A. Beg : Sir, I want to say one thing. Reference is always quoted of the latest amendment of the Act so that if we refer to the Jammu and Kashmir Constitution Act, any reader shall have to go back to all the amendments that might have occurred in 2007, 2008 or at any other time. With the amendment Act of 2009 we cannot confine ourselves to that Act along but we refer to all the previous provisions and the service of past amendments and these references are to be read retrospectively. A similar situation arose when the House was dealing with the Control Act. Under clause 2 which makes reference to the preamble of Act. 1996, the words, "We are hereby pleased" shall have to be read

in the amended form as "It is hereby enacted". Mere reference will not confine to Amendment Act of 2009. You will have to go back and read the provision of previous Act. The actual words of the Preamble of the Act of 1996 are : "We are hereby pleased" and these are to be replaced by the words : "It is hereby enacted". These words shall have to be replaced in terms of clause (b) This was in regard to the observations made by Mir Assad Ullah. As regards the observations made by my Hon'ble friend, Mr. D. P. Dhar. I beg to suggest that Bill when it becomes an Act. will not reverse the order. Its numbers will be read in the order of the original Act. So when clause (g) comes into being it will be read in reference to the preamble. Though by arrangements it happens to be here as clause 2, but it will be read as amendment to the original preamble. The new preamble will be : It is hereby enacted as follow". Therefore order will be exactly in harmony with the general practice.

I accept the amendment of Major Piara Singh. Previously: "We are hereby pleased to direct" etc. used to be written. Now in the new order of things, use of such words will be anachronic. In fact, I have been wrong in not deleting these words at the outset. I respectfully accept the amendment.

Mr. Assad Ullah Mir : The **Hon'ble President** may give his Ruling first as to if it is in order or not, then the question of acceptance will arise.

Hon'ble President: My Ruling is not needed. As the Hon'ble Mover has himself accepted this amendment, there is no need of placing it before the House.

Hon'ble M. A. Beg : Sir, should we take that the Consideration Motion has been passed?

Hon'ble President : Yes, the Consideration Motion when put to the House was adopted by the House. This concludes the day's business and the House is adjourned till 12th November. 1952 on, which date the Constituent Assembly will meet again at 1 of the clock.

Appendix A.

NOTIFICATION NO. C. A./1 Dated : 3rd November, 1952.

As directed by the **Hon'ble President**. Jammu and Kashmir Constituent Assembly a Bill further to amend the Jammu and Kashmir Constitution Act. 1996 is hereby published. The Bill is intended to be introduced in the coming session of the Constituent Assembly.

Srinagar.

3rd November, 1952.

(Sd.)

HIRANAND RAINA,

Secretary

J&K Constituent Assembly.

A bill further to amend the Jammu and Kashmir, Constitution Act, 1996.

Be it enacted by the Constituent Assembly as follows:—

1. Short title.—(1) This Act may be called the Jammu and Kashmir Constitution (Amendment) Act. 2009.

(2) It shall come into force on the 17th of November, 1952.

2. Amendment of section 3, Act XIV of 1996:— Clause (c) of section 3 of the Jammu and Kashmir Constitution Act, 1996 (hereinafter referred to as "the said Act"), shall be omitted.

3. Substitution of section 4, Act XIV of 1996:— For section 4 of the said Act the following section shall be substituted, namely :

"Sadar-i-Riyasat. 4 (1) The Head of the State shall be designated as **Sadar-i-Riyasat"**.

(2) All rights, authority and jurisdiction which appertain or are incidental to the Government of the territories of the State of Jammu and Kashmir shall be exercisable by the **Sadar-i-Riyasat** on the advice of the Council except in so far as may be otherwise provided by or under this Act, and except in regard to those matters enumerated in List I in the Seventh Schedule to the Constitution of India with respect to which the Parliament of India has power to make laws for the State.

(3) 'Election and term of office of the **Sadar-i-Riyasat** and all other matters pertaining to the office of the **Sadar-i-Riyasat** shall be regulated in accordance with the Resolution of the Constituent Assembly dated the 21st August, 1952, which Resolution is set out in Schedule I.

(4) Amendment of a number of sections by substitution of "**Sadar-i-Riyasat**" for "His Highness" in Act XIV of 1996.—In sections 7, 8, 9-A sub-section (I). 10 sub-sections (1) and (3), 11, 13 sub-section (I) 16. 17.31 sub-sections(I)and{2}. 38.43 clause (a), 48 sub-section (b), 49, 52, 53, 57, 58, 64 sub-section (I). 67 sub-section (2) and 71 of the said Act. for the words. His Highness "wherever occurring, the words, "the **Sadar-i Riyasat**" shall be substituted.

(5) **Amendment of sections 8, 9A, 53, 71, Act XIV of 1996:**-In sections 8, 9-A, 53 and 71, for the word and figure "Schedule I" wherever occurring, the word, figure and letter "Schedule I-A" shall be substituted.

(6). **Amendment of sections 37 and 43 (c) heading of section 71 and Schedule 1, Act XIV of 1996:-** In sections 37 and 43 clause (c) the heading to section 71 and form C of Schedule I (now to be renumbered as I-A) of the said Act for the words. "His Highness" "Board of Judicial Advisors" the words, "Board of Judicial Advisors" shall be substituted.

(7) **Addition of new section 46-A, Act XIV of 1996:—** After section 46 of the said Act the following section shall be added, namely :--

"46-A—Votes on account, Votes of credit-and exceptional grants.—

(1) Notwithstanding anything in the foregoing provisions of this Act, the Legislative Assembly shall have power—

- (a) to make any grant in advance in respect of the estimates expenditure for a part of any financial year pending the completion of the procedure prescribed in section 45 for the voting of such grant :
- (b) to make a grain for meeting an unexpected demand upon the revenues of the State when on account of magnitude or the indefinite charter of the service the demand cannot be stated with details ordinarily given in an Annual Financial Statement :
- (c) to make an exceptional grant which forms no part of the current service of any financial years.

(2) The provisions of section 45 shall have effect in relation to the making of any grant under sub-section (1) as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the Annual Financial Statement.

(8) **Amendment of section 55, Act. XIV of 1996:—** In section 55 of the said Act, the words "shall run and be in the name and style of His Highness and" shall be omitted.

(9) **Amendment of section 66, Act XIV of 1996:**—In section 66 of the said Act, for the words "the commands of His Highness" the words "orders of the **Sadar-i-Riyasat** shall be substituted and for the words "His Highness" where they occur for the second time the words "the **Sadar-i Riyasat**" be substituted.

(10) **Amendment of section 72, Act XIV of 1996:-** In section 72 of the said Act-

- (i) the heading "Prerogative" to the section shall be omitted ; and
- (ii) for the words "prerogative of His Highness" the words "powers of the **Sadar-i Riyasat**" shall be substituted.

(11) **Substitution of new section for section 73, Act XIV of 1996.--**

For section 73 of the said Act the following section shall be substituted namely.

"Revenues of the Jammu and Kashmir State.-73. All revenues and public monies raised or received by or on behalf of the Jammu and Kashmir Government shall be received for and credited to the account of the Jammu and Kashmir State.

Explanation. The expression "revenues" includes:-

- (a) all fines and penalties incurred by the sentence or order of any court of justice in the State, and all forfeitures, for crimes of any movable property immovable property in the State: and
- (b) all movable and immovable property in the State escheating or lapsing for want of an heir or successor, and all property in the State devolving as **bona vacantia**, for want of a rightful owner.

(12) **Insertion of a new Schedule in Act XIV of 1996:**— Schedule 1 of the said Act shall be renumbered, as Schedule 1 -A and before the said Schedule as so renumbered the following Schedule shall be inserted, namely

SCHEDULE I

(Section 4)

Whereas this Assembly adopted the recommendations contained in the Interim Report of the Basic Principles Committee presented on the 10th June, 1952.

And whereas by its Resolution, dated the 12th June, 1952, this Assembly directed that the recommendations so adopted be implemented and for that purpose charged the Drafting Committee to submit appropriate proposals.

Now, therefore, in pursuance of the Resolution dated the 12th June, 1952, and having considered the report of the Drafting Committee this Assembly reserves:—

- (i) that the Head of the State shall be the person recognized by the President of India on the recommendations of the Legislative Assembly of the State ;
- (ii) he shall hold office during the pleasure of the President;
- (iii) he may by writing under his hand addressed to the President resign his office:
- (iv) subject to the foregoing provisions, the Head of the State shall hold office for a term of five years from the date he enters upon his office :

Provided that he shall, notwithstanding the expiration of his term, continue to hold the office until his successor enters upon his office:

2. that the recommendations of the Legislative Assembly of the State in respect of the recognition of the Head of the State specified in sub-para (i) of paragraph I shall be made by election.

3. that the method of election to qualifications for and all other matters pertaining to the office of the Head of the State shall be prescribed in the Constitution, and until, these are so prescribed, shall be as set out in the Rules contained in the Schedule annexed to this resolution;

4. that the Head of the State shall be designated as the **Sadar-i-Riyasat** ;

5. that the **Sadar-i-Riyasat** shall be entitled to such emoluments, allowances and privileges as may be prescribed in the Constitution and pending the framing

of the Constitution to such emoluments, allowances and privileges as may be decided by this Assembly by separate resolution;

6. that the **Sadar-i Riyasat** shall exercise such powers and perform such functions as may be prescribed in the Constitution to be framed by this Constituent Assembly, and until such Constitution is framed, he shall exercise such powers and perform such functions as have hitherto been exercised by His Highness under the Jammu and Kashmir Constitution Act, 1996, as amended by Act No. XV11 of 2008.

7. that in the event of the occurrence of a casual vacancy in the office of the **Sadar-i-Riyasat** by reason of his death, resignation or otherwise, the powers and functions exercisable by the **Sadar-i-Riyasat** shall, until the assumption of office by the newly elected **Sadar-i-Riyasat** in accordance with the procedure laid down in this resolution, be exercised and performed by the person recommended by the State Government for recognition as Officiating Sadar-i-Riyasat to the President of India; and

8. that this Assembly shall in due course provide a suitable remedy in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of the **Sadar-i Riyasat**.

- (a) is a State Subject of 'Class 1 as defined in the State Subject Definition Notification No. I-I./84, dated 20th April, 1927 ;
- (b) has completed the age of 21 years on the date of filing the nomination paper; and
- (c) is not subject to any of the disqualifications specified in rule 4 of the Jammu and Kashmir Constituent Assembly Election (Part 1) Rules, 2008, for being chosen as a member of the Constituent Assembly.

2. The **Sadar-i-Riyasat** shall not be a member of the Legislative Assembly of the State, or if a member of the Legislative Assembly of the State he shall be deemed to have vacated his seat in the House on the date he enters upon his office as the **Sadar-i Riyasat**.

3. The **Sadar-i Riyasat** shall hold no other office of profit.

4. **Method of Election.**— (1) When election to the office of the **Sadar-i Riyasat** becomes necessary, the Speaker of the State Legislative Assembly shall fix time and date for the holding of the election and shall cause a notice thereof to be sent to every member.

(2) At any time before noon on the date preceding the date so fixed, any member of the State Legislative Assembly may nominate another person for election by delivering to the Speaker or any officer authorised by the Speaker in this behalf, a nomination paper in the form prescribed in the Annexure to this Schedule signed by himself as proposer and by another member as seconder.

(3) Any person who has been so nominated may withdraw his candidature in writing addressed to the Speaker at any time before the Assembly proceeds to hold the election.

(4) At the time fixed for election under sub-clause (1), the Speaker or in his absence the person presiding shall read out to the Assembly the name of the persons who have been duly nominated and have not withdrawn their candidature together with those of their proposers and seconders, and if there is only one such candidate, shall declare him to be duly elected. If there is more than one such candidate, the Assembly shall proceed to elect the **Sadar-i Riyasat** by ballot.

(5) Where there are only two candidates for election, the candidate who obtain at the ballot the larger number of votes shall be declared elected. If they obtain equal number of votes, the Speaker or in his absence the person presiding shall exercise his casting vote and the person in whose favour such vote is cast shall be declared elected.

(6) Where more than two candidatures have been nominated and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election, and balloting shall proceed the candidate obtaining the smallest number of votes at each ballot being excluded from the election, until one candidate obtains more votes than the remaining candidates,

or than the aggregate votes of remaining candidates, as the case may be and such candidate shall be declared elected.

(7) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under sub-clause (6), the determination, as between the candidates whose votes are equal, of the candidate who is to be excluded shall be by the casting vote of the Speaker or in his absence of the person presiding.

8. The Prime Minister of the State shall communicate the name of the person duly elected by the Assembly as the **Sadar-i-Riyasat** to the President of India for being recognised as the **Sadar-i-Riyasat**.

9. **Oath:-** The **Sadar-i-Riyasat** shall, before entering upon his office, take and subscribe in the presence of Chief Justice of the State High Court or in his absence any Judge of the High Court available on oath or affirmation in the following form, namely: —

"1 A. B. swear in the name of God /solemnly affirm that I will faithfully execute the office of the **Sadar-i-Riyasat**. Jammu and Kashmir and will to the best of my ability preserve, protect and defend the Constitution of State as by law established and that I will devote myself to the service and well being of the people of the State".

ANNEXURE TO THE SCHEDULE

NOMINATION PAPER

Election to the office of the Sadar-i-Riyasat

We hereby
nominate.....

..

(Full name and address of candidate)

As.....

...

a candidate for election to the office of the Sadar-i-Riyasat, **Jammu and Kashmir.**

We have verified, and do hereby declare, that the said candidate is eligible for election as the “**Sadar-i-Riyasat**” under the Schedule to the Resolution date..... August, 1952, of the Constitution Assembly.

Signature of proposer.....

Name of Constituency.....

Date.....

Signature of Secunder.

Name of Constituency.

Date.....

I assent to this nomination.

Signature of candidate

Date

STATEMENT OF OBJECTS AND REASONS

The Constitution Assembly passed on the 21st of August 1952. a resolution regarding the termination of hereditary ruler ship and providing for an elected Head of the State. This has necessitated certain consequential amendments in the Jammu and Kashmir Constitution Act. 1996 Clauses 2, 3, 4, 5, 6, 8, 9, 10, 11 and 12 relate to these amendments. It is also proposed to insert a new section 46-A in the Constitution Act providing for votes on account votes of credit and exceptional grant as a measure of emergency or when due to certain circumstances it is not possible to get a vote of the Assembly on the Annual Financial Statement.

Hence the Bill.

(Sd)

M. A. BEG.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY.

Fifth Session.

Srinagar. November, 1952

Wednesday, the 12th November, 1952/27th Katik, 2009.

The Constituent Assembly met in the Assembly Chamber Rajgrah Palaces at 11 of the clock.

Mr. President : (Hon'ble Mr. G. M. Sadiq) in the Chair;

***Mr. President (Hon'ble Mr. G. M. Sadiq) :** The Hon'ble mover has accepted the amendment of the Hon'ble Major Piar Singh to the Bill regarding amendment to the Constitution Act of **Jammu** and Kashmir introducing in this House. If any Hon'ble Member wants to speak anything on this motion he can do so.

***Hon'ble M. A. Beg : Hon'ble President.** I move that the Jammu and Kashmir Constitution Act (Amendment) Bill be passed.

I had stated in this House while making the original motion that the Head of the State shall according to the resolution passed on the 21st August, 1952, be an elected one. it was essential to amend the existing Constitution of the State to bring it in conformity with this resolution. There is no necessity for any further detailed discussion on this amendment [Jill. I have submitted that ail the powers, privileges and jurisdiction conferred on His Highness by section 4 of the Act will be exercised by the **Sadar-i-Riyasat** in consultation with the Council. In addition to the second amendment, the **Sadar-i-Riyasat** will exercise the powers, privileges and jurisdiction according to the existing Constitution. Firstly that he will not absolute in authority like the old Maharajas, but he shall have to act subject to the limitations imposed by the Constitution, that is to say that he cannot himself sanction the budget of this State nor can he legislate on his own. On the other hand he will exercise powers as a Constitutional Head according to the advice of the Council and the Legislative Assembly.

The second limitation imposed on the **Sadar-i-Riyasat** is that in addition to the limitations imposed by the Constitution he will be bound by the provisions applicable to the Jammu and Kashmir State in respect of the matters vested in the Centre relating to all the matters enumerated in list No. I of Schedule No. 7 of the Constitution, of India about which the Indian Parliament is empowered to make laws.

The second amendment which has been moved relates to the election of the **Sadar-i-Riyasat** in accordance with the Resolution of the 21st August, 1952. Special changes have also been effected in the remaining section of the Constitution through this amendment Bill, and it is proposed to substitute "**Sadar-i-Riyasat**" for His Highness. The words "Orders of the **Sadar-i-Riyasat**" have been substituted in place of "Royal Prerogative" which were used in the Constitution Act. 1996. The Government which was operating on the basis of old theory based on the conception of Kingship have ended and in its place appropriate words "Orders of the **Sadar-i-Riyasat**" have been proposed.

The last section concerns the Finances of the Jammu and Kashmir State. Previously all the income of the State such as revenue, income tax etc. was

credited into the treasury in the name of the Maharaja. Since that theory had changed all the income of the Government and taxes will in future be credited in the name of the Government, in olden days all income was credited into the treasury in the name of the Maharaja but it will be entered henceforth in the name of the Jammu and Kashmir State. Since these amendments were necessary in the Constitution Act, hence this amending Bill. So far as the Indian States are concerned, the Kashmir State has enjoyed the privilege of giving them a lead. Until the Constituent Assembly of the State frames the new constitution it will be necessary to operate the existing constitution during the interim period in accordance with the resolution of the Constituent Assembly. I, therefore, request that the Bill may be adopted with these amendments.

Hon'ble Girdhari Lal Dogra : So far as the Indian States are concerned it has always been the proud privilege of Kashmir to give them a lead. During the days of agitations and popular movements also it had this proud privilege and when the new Constitution is being framed Kashmir alone had the proud privilege of leading them. I do not want to take much time of the House and would only submit that in order to meet the demand of the times and to carry the democratic order forward we should pass the Bill which has been introduced today. Some people are trying to present this Bill in a wrong manner, and give it a wrong colouring. Such people are reactionaries and are appearing with national slogans at times in a communal form and at times in some other form. But such people are neither honest nor patriotic and are nothing but reactionaries and want only to maintain their reactionarism. We have got the co-operation of the Indian public, particularly of the progressive elements and of the Indian leadership and feel proud of the same and I hope that we shall be successful in our struggle and reach our desired goal and discharge completely our duties of carrying the public forward. I hope that if we tread our path properly all the elements mentioned above will assist us. With these submissions I support this Bill.

Mr. Assad Ullah Mir:- Sir, I would request the Hon'ble mover of the amendment through you that were in clause 4 of the amendment Bill it has been provided that right, authority and Jurisdiction of the **Sadar-i-Riyasat** would be the same as

vested in His Highness and that the remaining powers would be exercised by him on the advice of the Council, a condition has been laid down with regard to it. I shall read out these words so that we may be able to see that we are not making any commitment anywhere which it is feared might cause misgivings in minds of some members. The wording of clause 4 reads thus:—

"All rights, authority and jurisdiction which appertain or incidental to the Government of the territories of the State of Jammu and Kashmir shall be exercisable by the **Sadar-i-Riyasat** on the advice of the Council except in so far as may be otherwise provided by or under this Act, and except in regard to those matters enumerated in list I in the 7th Schedule to the Constitution of India with respect to which the Parliament of India has powers to make laws for the State".

With regard to the clause "And except in regard.....for the State" I want to submit that when we peruse list 1 of Schedule 7 we find many items which our State has not acceded to the Centre under the Instrument of Accession. There are 96 or 97 items in all in this Schedule and it appears from this amendment that no limitation has been put on any one of them. It is clear from the wording of the amendment that the Central Parliament can frame laws of our State whenever they like to do so on all the items entered in Schedule 7 list 1, although we have not vested all the powers in the centre under the Instrument of Accession. The accession of our State is different from the remaining State. We have maintained our independence to which the Leader of the House has given expression in his speeches many times before this House which has been carrying forward his ideas. I therefore, request the Hon'ble mover may elucidate whether the Indian Parliament would have the authority to frame laws on all the items in the Union list for our State also like the remaining State of India.

Hon'ble M. A. Beg:- Sir, clause (4) relates to the powers of the **Sadar-i-Riyasat** on the advice of the Council except in so far as may be otherwise provided by or under this Act and except in regard to those matters enumerated in list I in the

Seventh Schedule to the Constitution of India with respect to which the Parliament of India has power to make laws for the State.

This reference is to be read with list I Schedule 7 read with Article 370, 1 (i) which makes it abundantly clear that Dominion Legislature can make laws only in respect of specific matters in consultation with the Jammu and Kashmir Government. So there should be no doubt about the fact that powers to make laws for the Jammu and Kashmir State is limited in the Dominion Parliament and limitation to that extent is placed on the powers of the **Sadar-i-Riyasat** to discharge his duties in the territory of Jammu and Kashmir State. It is, therefore, that these amendments have been made in the Constitution of the Jammu and Kashmir State. When the present Constitution is farmed and applied to the State, that is, until the Constituent Assembly of the State frames the new Constitution it will be necessary to apply during the interim period existing Constitution along with the amendments proposed by the Constituent Assembly. It is, therefore, my request that this Bill may be adopted with these amendments.

Hon'ble President : The question is that the Jammu and Kashmir Constitution Amendment. Bill be Passed.

☛ **Note :** The motion was adopted.

Hon'ble President : Next item.

Hon'ble S. M. Abdullah : Sir. I beg to present the following report of the Emblem Committee :-

"In pursuance of the resolution passed by the Constituent Assembly on the 31st of March, 1952, a Committee was set up by you. Sir to examine the question of preparing an Emblem for the State. The Committee held a number of meetings from time to time. Various designs of the Emblem were proposed and considered by the Committee. Finally an Emblem as described in the enclosed motion has been recommended by the Committee. Accordingly this report is submitted along with the Emblem for the approval of the House

(Sd.) G. M. SADIQ.

(Sd.) MA. BEG.

(Sd.) MOTI RAM BEGRA.

(Sd.) RAM RAKHA.

(Sd.) GHULAM RASOOL.

(Sd.) RAM PIARASARAF.

Appendix

"This Assembly resolves that the Emblem of the State of Jammu and Kashmir, shall be a shield-like figure with three equidistant horizontal stripes and a full bloomed lotus on its top with two ploughs facing each other around its edges, the whole surrounded by two ears of corn with the inscription "Jammu and Kashmir" at its bottom as per design."

Sir, so far as the Emblem is concerned a specimen of it has been displayed before the Hon'ble Members. I would, therefore, feel no difficulty in explaining it. Every State has its own Emblem. So far as this State is concerned the dynasty which has ruled here had also adopted an Emblem. Maharaja Ranbir Singh had adopted an Emblem in which Maharaja Partap Singh effected certain changes later subsequently when Maharaja Hari Singh assumed the gaddi he changed it totally. Whatever Maharaja Ranbir Singh had inscribed below the Emblem it means "Known for valour" Maharaja Pratap Singh had made certain alterations in the design. Maharaja Hari Singh had changed the design altogether. Whatever he had inscribed below the emblem it meant "justice is the ideal of Solar Dynasty". That is, he claimed that the dynasty which had ruled over the State had originated from the Sun. He had therefore, written that justice was the principle of the Solar Dynasty. This was, however, the Emblem of autocracy viz. despotism. This was revealed from every sign. So far as the people of this place are concerned they cannot think of such things. They have to recognise a reality and keeping the same in view they have to adopt an Emblem for the country. We know that peasantry constitutes the majority of the people here. The affections to which the peasantry had been subjected for centuries have now become the subject of history. It was, therefore, essential that the present movement should turn into people's movement, and then its emblem should be that which is the Emblem of the peasant. That Emblem of the peasant is the

plough which has brought about revolution in this country. The National Conference had entertained a faith that the bad days of the State would end if the peasants' difficulties were ended. The peasantry here constitute 95 percent of the population. If the lot of the peasant was not ameliorated the condition of this country would resemble the tree which had weak roots and would fall with a slight movement of the wind. The dynasty which has ruled here regarded itself as a descendant of the Sun, and was in favour of the rule by the sword. They did not pay any attention to the peasantry and had they devoted any attention to the peasants it was possible that the revolution which overtook the country so rapidly would not have occurred, and would have been checked for sometime more. Since this was not to happen and did not happen when the public movement progressed. The majority of the oppressed were from the peasantry and the labouring classes which adopted their own Emblem as the National Emblem and undertook that they would not rest until this Emblem of the peasant waved in the sky. When we had to select an Emblem for the State our thoughts also moved in that direction as the Hon'ble Members can see that in this Emblem we have proposed the signs of two ploughs on the two corners facing each other which renders the Emblem of the peasant conspicuous. Besides our country is not industrial but agricultural. There is no doubt that the whole of Asia is an agricultural continent but our country in particular is an agricultural country and it is, therefore, that we have placed two open ears of corn in this Emblem which denote the agricultural economy of this country. The third thing that you will see on this Emblem constitutes three horizontal stripes which represent the illaqs of Jammu, Kashmir and Ladakh. You will note that these three stripes are equidistant. The peasant class here is the most oppressed and is in majority in every part of the country. It was, therefore, essential to adopt its Emblem and the thing that is prominently conspicuous in the Emblem is the lotus flower. The Kashmir Valley is called the lotus home. I was just now discussing the importance of the lotus with a certain friend. This has been mentioned most in the Sanskrit Books. I have, indeed, not studied Sanskrit Books on account of illness but it has been mentioned in those books that the Goddess of Learning.

Saraswati, resides in the lotus. Previously people from every corner of India used to come to Kashmir for studies and learning and seeking knowledge. Kashmir has been the cradle of learning in the peaks of the Himalayas. Whether it was Buddhist, Vedic or Islamic learning Kashmir was always the cradle. Some big Universities of the Buddhists were established here. To denote all these things the lotus has been shown raised from the level of the water in this Emblem. These are certain things which we have not done under the influence of some power or vanity as we do not take pride in tracing our decent from the Sun. This Emblem has been designed in a simple manner. I hope that the House will adopt it.

Major Piara Singh : The Emblem of a country denotes its characteristics power and vanity were indicated from the Emblem which was so far adopted and the characteristics of the country were ignored. In the old Emblems there are two soldiers in armour with swords in their hands standing and between them there are two swords on which the crown is placed. From the time the freedom movement started here and the people became conscious. They protested against autocracy in consequence of which this Constituent Assembly came into being. It is possible that the Emblem was in accordance with the spirit of that period because in those days sometimes Gilgit and sometimes Ladakh were conquered. But this row the age of peace and it is quite clear from this that the Emblem does not suit the percentage because that was the Emblem of autocracy and vanity and pride were flowing from it. The present Emblem does not indicate the conditions of any one person or any particular man but it depicts economic conditions and culture of the country which has been explained in detail by the Leader of the House while making mention of the Emblem. There are three equidistant horizontal stripes and two ears of corn in this Emblem and these do not indicate the conditions of any party but clearly the economic and cultural conditions of the country. I, therefore, support that this Emblem may be adopted for the future.

Mr. GhuJam Mohd. Jalib : Hon'ble President. I wish to submit a few words with regard to the Emblem that would be adopted for the Jammu and Kashmir

State after the approval of the House. This Emblem constitutes five parts viz. three equidistant horizontal stripes, two ploughs, lotus, two ears and the words of Jammu and Kashmir. These five parts constitute in themselves historical and cultural stores. It is not possible to speak in detail on all of them. I would, however, like to submit a few words regarding the lotus. The lotus would reflect the attractively looking flower beds of Jammu and Kashmir State. This Emblem would represent the green and happy valleys and flower gardens of this place. This Emblem would represent the gardens laden with different kinds of fruits, transparently clear streams and rivulets and flowing and meandering rives of this place. This Emblem would represent health resort, minerals, forests, the Shalimar and the Nishat of this place. The Emblem would reflect this verse of the poet **Iqbal**:-

**"Go to the vale of Kashmir and there see the mountains
the hillocks and traces of habitation; and you will find
each nook and corner green and tulip in every
orchard".**

The lotus would reflect the ideas which have been expressed by **Pandit Brij Krishen Chakbast** in his verse:-

**"Every particle of Kashmir is hospital. The
pebbles have given me water in the way".**

These are the two Indian poets who have blood relationship in one form or another with this country. But this verse reflects the sentiments expressed in his verse by the **Persian Poet Shirazi** who was not connected by blood with this country. He has said:-

**"Every consumed being who visits Kashmir—
even a roasted fowl is blessed with wings and
feathers".**

Remaining, however content with this, I support the resolution of the Hon'ble Leader of the House and appreciate the good selection made by the

Hon'ble President and learned members of the Committee who have proposed this Emblem.

S. Harbans Singh Azad : Sir, I want to say something about the State Emblem. The Emblem of a country reflects the past and present civilization of that country and indicates against what it is up and what is the programme of the country. As has been stated by the Hon'ble Leader of the House pride vanity were flowing from the previous Emblem which contained two daggers, an armour and a sword. But we make it clear from the present Emblem that we do not feel vanity of our association with any particular dynasty and as in the olden days we are not proud or vain. The present Emblem on the other hand bears this out that we may enjoy a prosperous life and that as the sons of the soil may maintain for ever our existence. Thus our programme and this Emblem is the Emblem of land in the real sense. This very Emblem has freed the sons of the soil from the slavery of centuries. We have undertaken that we shall make this country prosperous in the real sense and keeping this ideal before us we have presented this Emblem which is the Emblem of the peasants who constitute 90 per cent population of this State. We have come to this Assembly with the promise that we shall better the condition of the peasantry of the country and enrich him with its riches. The Emblem signifies that the leaders of this place will lead the sons of the soil to progress. There are many shortcomings, weaknesses and sins in the world we live in. Man has to struggle in this world to save himself from them. The purpose of this lotus is to indicate that man may not feel disappointed in his struggles, but instead blossom like the lotus. This is our message. With these words, I support this motion.

Sardar Kulbir Singh : Sir. after the detailed speech of the Leader of this House four five things that strike one, clearly are, that the country while carrying on its Constitutional struggle has now reached the stage where we some years previously had decided that hereditary ruler ship would be terminated in the country. We see that the previous State Emblem was the symbol of the tradition of the hereditary rule. When we are liquidating the hereditary rule it become naturally necessary that Emblem with which they used to carry on the rule should

also end. We have imparted a lesson to the world through our struggle that we are going from the person to the people. This Emblem denotes that the public of Jammu and Kashmir have reached the stage that they do not only give the reason in unity but lead the public from the person to the people. This Emblem also shows to the world that real power does not lie in the sword but in the efforts of the people of the country. The lesson which history gave to the world during the last five or six years through revolution whether it was agricultural revolution, industrial revolution or mental revolution clearly indicates that the power of a country does not lie in the sword but in the unity and efforts of the people of that country. Our National Emblem tells the world that the power of the people of the world does not lie in the sword but this figure of the plough makes it clear that we want to acquire real power in our country by efforts which is the greatest factor for maintaining the prosperity and freedom of this country. Every Government has its regular State Emblem. This Emblem would re-remind the people's Government which is functioning in the State of J&K. The persons who would be occupying the high seats in this Government as to how the people secured their freedom by shedding their blood. They should rise above all discriminations and narrow-mindedness and discharge their duty of maintaining the civilization, culture and prosperity of the people of this country. This Emblem will remind them always of their responsibilities. The most important thing of which the people of Jammu and Kashmir feel proud is that the line of action which they adopted and Kashmir feel proud is that the line of action which they adopted and are pursuing does not symbolize any one particular person, country or period but is such as can lead the public and the people of the whole world to freedom. As we feel proud in pursuing the course in the same way this Emblem also unites the State with the lofty tendencies and ideas of the progressive powers and leading countries of the world. With these words I support the motion made by the Leader of the House and congratulate the public on their pursuing the path of progress under his leadership.

Kh. Ghulam Ahmed Dev : Hon'ble President! The Committee constituted for the purpose have proposed that the Emblem of the Jammu and Kashmir State

would be shield-like with three equidistant horizontal stripes in it. The shield in the Emblem symbolizes valour. There are three equidistant stripes in this Emblem signifying that the illaqs of Jammu, Kashmir and Ladakh would be culturally, politically and economically free. It denotes thus as well that Ladakh would enjoy equal status in respect of freedom and independence with the rest of Jammu and Kashmir State. So far as the symbol of the plough is concerned it was associated with the national flag, and the freedom movement spread on national lines, developed and freedom was attained. It was the symbol of the plough the adoption of which was instrumental in developing our movement and attaining the freedom, and also afforded an opportunity to us to lay the foundations of popular Government in place of autocracy according to our desired objective and which made the tillers who ploughed and labourers the owners of land and restored respect and prosperity of the downtrodden section of the people of this country. With these words I support the resolution introduced by the Leader of the House.

***M. Ram Piara Saraf :** While supporting the proposal under discussion. I would like to submit a few words. The Emblem of a country denotes the desires and aspirations of the class in power there. The Emblem which it adopts denotes its fundamental principles. History bears it out that so far whichever class came to power it changed all traditions and principles of the Government preceding its own and adopted an Emblem in conformity with its own view point, and replaced the previous Constitution and the flag with a new Constitution and flag. The previous Emblem of our State represented a class that is it was the Emblem of Jagirdari Government. In that Emblem two soldiers are with their swords protecting the crown which was maintaining Jagirdari Government. Today when we are liquidating the feudal order, ending all its traditions. It is necessary that we do away with this Emblem as well. While supporting this proposal I hope that all the aspirations of people's struggle would shine fully in the new order.

Hom'ble President : I will now put the question which is : "This Assembly resolves that the Emblem of the State of Jammu and Kashmir, shall be a shield-like figure with three equidistant horizontal stripes and a full bloomed lotus on its

top with two ploughs facing each other around its edges, the whole surrounded by two ears of corn with the inscription "Jammu and Kashmir" at its bottom as per design".

☛ **Note** : The motion was adopted.

Hon'ble President : Next item.

Hon'ble Sheikh Mohd. Abdullah : I move that :--

"This Assembly resolves that the personal flag of the Sadar-i-Riyasat of the Jammu and Kashmir State shall be rectangular in shape and red in colour with the State Emblem in deep yellow in the centre. The ratio of width to the length of the flag shall be 2:3".

Sir, the Head of the States in India as well as other countries have their personal flags. The King of England or the Queen has a personal flag. Similarly our President in India has his personal flag, which is different from the Union flag. The Governors of the States in India have also their personal flags. It was, therefore, considered proper that our **Sadar-i-Riyasat** should have his personal flag. In this connection it is proposed that the personal flag of our **Sadar-i-Riyasat** would be rectangular in shape and red in colour with the Emblem of the State in deep yellow in the centre. I hope that the House will approve it. This personal flag of his will fly over the place of his residence. Two small flags of the same pattern would be fixed on his ear as well.

☛ **Note** : The samples were displayed.

Hon'ble Sham Lal Saraf : Sir I support.

Mr. Assad Ullah Mir : The people of our country had been fettered by the chains of slavery since centuries. When oppression by autocracy reached its climax in this country the freedom movement started under the leadership of the Leader of the House. After bearing different kinds of troubles we were fortunate to see the day in 1947 when the public reaped the fruit of their efforts and sacrifices. For the purpose of reaping this fruit the public had borne the hardships of the narrow and dark cells of the jail and of the punitive taxes. But the sacrifices bore their fruit. The country attained freedom, the Constituent Assembly was formed, the new Constitution is being framed and the sovereignty of this place was transferred to

the forty lakhs people of this State. Even, adult in this State was given the right under this Constitution to elect the **Sadar-i Riyasat** through his representative and when the **Sadar-i-Riyasat** was elected it was necessary that we should adopt a national flag and a National Emblem for the country. It also became incumbent to propose a flag for the **Sadar-i-Riyasat**. The Leader of the House has proposed a flag for him. The red and saffron colour in the flag of the previous ruler denote bloodshed. I remember my school days when the students were made to recite the poem on the flag in this manner :—

"The colour which is red and saffron is the symbol of the some bloody war".

That is the flag of the previous ruler which flew here for one century was the symbol of war. Wars are of various kinds. If in the war against a tyrant for social or moral reform blood is shed it is considered the blood of martyrs but, the war where the object is to shed the blood of the poor and to oppress the oppressed is called bloody. Since the blood of Budhs and Dogras was shed in the previous wars those wars can be called bloody wars. The interests of the public were not kept in view in those wars but the blood of the oppressed was shed for the sake of special interests and maintaining personal rule. Those wars were fought with swords in hand to strengthen the imperialist policy. But I am happy today and as it has been said that :-

**"He who conquers world, but cannot retain it is
in fact himself a conquered".**

Today the public have assumed authority in place of this imperialist power. The wars that were fought by the Budhs the Dogras and the Muslims against tyranny have borne fruit today. In the Emblem of the dynasty of the previous Ruler two soldiers in armour equipped with weapons have been displayed. Their armour and swords do not indicate anything except bloodshed. The supreme authority is vested now in the public and the public and the previous Emblem have ended with the liquidation of the imperialist order. The emblem which has been adopted in this House is the symbol of the public and will last so long as the forty lakh people of this State would live. Similarly we are adopting today a flag for our **Sadar-i-Riyasat**, be he a Hindu, a Muslim, a Budh, a Rajput or Harijan

who has the confidence of this House. The colour of flag will be red because of the symbol of all the labouring class in the world is red, and the Emblem of the State will be in the centre. We have not included in this State Emblem any symbol of the Son or Turani or Afghani symbol but two ears of corn on which the people of Kashmir depend, as Kashmir is an agricultural country. Along with it we have included in this Emblem three equal stripes which denoted the three cultural regions of the State and bring to the forefront the affinity of Jammu, Kashmir and the frontier. There is a lotus along with it. Kashmir has been the cradle of knowledge and progress and the abode of Rishis, Munis and Arifs for centuries. This Emblem denotes the progress of their knowledge and art. Similarly we have today proposed a flag for the **Sadar-i-Riyasat** which will remain with the **Sadar-i-Riyasat** as a deposit on behalf of the public and I hope that this flag will wave forever. After this I congratulate the Leader of the House for having proposed such a flag for the **Sadar-i-Riyasat** as represents the public. If any power intervenes to obliterate it the public are prepared to drop the last drop of their blood for it. The labouring public of this place will thrive and prosper under the New Kashmir plan and they will progress which will serve as a living example for India and the other countries.

Hon'ble President : The question is that :-

"This Assembly resolves that the personal flag of the **Sadar-i-Riyasat** of the Jammu and Kashmir State shall be rectangular in shape and red in colour with the State Emblem in deep yellow in the centre. The ratio of width to the length of the flag shall be 2:3".

☛ **Note :** The motion was carried unanimously.....(Cheers)

Hon'ble Girdhari Lal Dogra : Sir, it was resolved in the resolution which was introduced in this House today in the morning that we should relieve His Highness and bid him good-bye on the 17th November, 1952, on which date the **Sadar-i-Riyasat** will replace him. According to the Bill which was adopted today in the House the **Sadar-i-Riyasat** will begin to function on the 17th November, on which we shall bid good-bye to the former Head of the State (cheers). At the time

when we would bid good-bye to the old Head of the State the new **Sadar-i-Riyasat** of the State should be present in the State. So far as the election of the **Sadar-i-Riyasat** is concerned a resolution was passed by this House about it on the 21st August, 1952 in which the procedure is laid down as to how the election of the new Head of the State shall be conducted. But no date was fixed in it for holding the election. I therefore, consider it essential that the election under the resolution of 21st August, should be held before the 17th November. The message which the Leader of the House i.e. the Prime Minister of the Jammu and Kashmir State, shall have to send to the President of the Republic of India has to be sent before the election of the **Sadar-i-Riyasat** it is therefore necessary that this House passes a resolution which will authorize the Legislative Assembly to conduct the election of the **Sadar-i-Riyasat** under the resolution of the 21st August, 1952. With this background I move this resolution:-

"This Assembly resolves that the Legislative Assembly do now proceed to elect the Head of the State in pursuance of the resolution passed by this Assembly on August 21st, 1952".

☛ **Note:-** The motion was adopted unanimously.

Hon'ble President:- I now adjourn the Session of the Constituent Assembly till such date as may be fixed by me later on.

☛ **Note :** The House adjourned sine-die.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY.

Fifth Session

'Srinagar, November, 1952

Srinagar, Tuesday, the 18th November, 1952/4th Kartik, 2009.

The Constituent Assembly met in the Assembly Chamber at three of the clock (afternoon).

Mr. President (Hon'ble Mr. G. M. Sadiq) in the Chair.

Hon'ble President: Hon'ble G. L. Dogra.

Hon'ble G L. Dogra : Sir, I beg to move the following resolution standing in my name :-

In pursuance of para of 5 of the resolution of the Constituent Assembly dated the 21st August, 1952, this Assembly resolves that the emoluments, allowances and privileges of the **Sadar-i-Riyasat** should be as follows :-

1. Emoluments.-The emoluments of the **Sadar-i-Riyasat** shall be Rs. 5,500 per mensem.

2. Allowances. In order that the **Sadar-i-Riyasat** may be enabled to discharge conveniently and with dignity the duties of his office there shall also be paid in each year for each of the purposes specified below such amount, not exceeding the maximum amount provided hereunder, as may be required by the **Sadar-i-Riyasat**.

Maximum amount provided.

(i) Sumptuary allowances	Rs. 15,000
(ii) Staff and Household	Rs. 75,000
(iii) Tour expenses	Rs. 10,000
(iv) Allowances for miscellaneous expenses	Rs. 9,000
Total ...	Rs.1.00,000

3. The **Sadar-i-Riyasat** may in case of necessity in consultation with the Government sanction re-appropriations in respect of the grants specified in para 2.

Note:- The grant specified above shall be operated upon in consultation with the Government.

4. (1) The **Sadar-i-Riyasat** shall, through his term of office, be entitled without payment of rent or hire, to the use of his furnished official residences and of motor vehicles specified in the Schedule to this resolution, and the maintenance of such residences and motor vehicles shall be at the State's expenses.

(2) The items specified in the Schedule may be varied or amended by the **Sadar-i-Riyasat** with the concurrence of the Government.

Explanation:- For the purpose of this order.-

- (a) "Official residence" means the official residence or residences to be specified by the Government by notification and include the staff quarters and other buildings appurtenant thereto and gardens thereof;
- (b) Maintenance in respect of motor vehicles specified in the Schedule would include pay and allowances of Chauffeurs and the provisions of oil and petrol.

5. There shall be paid to the **Sadar-i-Riyasat**, in connection with his assumption of office, an allowance equal to his actual expenses in travelling, with his family, if any, and his family effects to take up his duties, and a similar allowance on his vacating the office to return to the place where he ordinarily resided at the time of his appointment.

6. **Privileges:-** No customs duties shall be levied on the following articles if imported or purchased out of bond by the **Sadar-i-Riyasat** during his tenure of office :--

- (a) articles for the personal use. wear or consumption of the **Sadar-i-Riyasat**. or any member of his family :

- (b) food, drink and tobacco for consumption by members of the **Sadar-i-Riyasat's** household or guests whether official or not :
 - (c) articles for furnishing of any of the **Sadar-i-Riyasat's** official residences.
 - (d) motor-cars provided for the **Sadar-i-Riyasat's** use.
7. The **Sadar-i-Riyasat** shall be entitled to free supply of water and electricity for his domestic use.
8. All motor vehicles specified in the Schedule to this resolution and any private car owned or maintained by the **Sadar-i-Riyasat** shall be exempted from payment of any toll or tax leviable under any statute or bye-law.
9. The **Sadar-i-Riyasat** shall be entitled to stay free of rent in any Dak Bungalow or Rest House maintained by the Government.
10. (1) No criminal proceedings whatsoever shall be instituted or continued against the **Sadar-i-Riyasat**, in any Court during the term of his office.
- (2) No process for arrest or imprisonment of the **Sadar-i-Riyasat**, shall issue from any Court during his term of office.
- (3) No civil proceedings in which relief is claimed against the **Sadar-i-Riyasat**, shall be instituted during his term of office in any Court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as **Sadar-i-Riyasat**, until the expiration of two months next after notice in writing has been delivered to the **Sadar-i-Riyasat**, or left at his office stating the nature of the proceedings, the cause of action therefore, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.
- (4) Without prejudice to the remedy that may be prescribed by the Constituent Assembly under para 8 of its Resolution, dated 21st August, 1952, in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of the **Sadar-i-Riyasat**, the **Sadar-i-Riyasat** shall not be answerable to any Court for the exercise and performance of powers and duties of his office or for any act done or purporting to be done by him in the exercise

and performance of those powers and duties under the Jammu and Kashmir Constitution Act:

Provided that nothing in this para shall be construed as restricting the right of any person to bring appropriate proceedings against the State Government.

11 This resolution shall have effect from the date of assumption of office by the **Sadar-i-Riyasat**.

Schedule

Motor-Cars	2
Jeep	1
Station Wagon	1
Motorcycle	1

Hon'ble G. L. Dogra : The resolution is self explanatory and needs no further elucidation. So without adding anything more I move the resolution before the House.

Hon'ble D. P. Dhar : Sir I second the resolution.

Hon'ble President: There is an amendment in the name of S. Harbans Singh Azad.

S. Harbans Singh Azad : Sir. 1 move that in article 9 of the main resolution after the words **Sadar-i-Riyasat** comma may be inserted and the following words added:

"and the members of his family and staff", the words "shall be entitledby the Government" will then follow.

Mr. Bhagat Ram Sharma : I second the amendment.

Mr. Ram Piara Saraf: Sir, the resolution carries much importance and most of the members desire to study the same thoroughly and thus be able to move amendments thereto. So I would request that the discussion on the resolution may be postponed till tomorrow with a view to afford an opportunity to members to study and consider the resolution.

Hon'ble President : I think the House has no objection to accept the motion made by Mr. Ram Piara Saraf to the effect that the discussion on this resolution may be postponed till tomorrow.

Hon'ble G. L. Dogra : Sir, we have no objection.

Hon'ble President : So, the resolution will come up for discussion tomorrow at 12 noon.

Hon'ble President : Hon'ble G. L. Dogra.

Hon'ble G. L. Dogra : Sir, I lay on the table the standing order No. 1 of 2009 dated 8th November, 1952. issued by you which has been circulated among the members of the House.

STANDING ORDER NO 1 OF 2009.

Whereas doubts have been expressed in regard to the scope of sub-rule (6) of Rule 15 of the Rule of Business and Procedure of the Jammu and Kashmir Constituent Assembly (hereinafter referred to as "the Rule") and difficulties have arisen in carrying out the provisions of the Rules, and it is necessary to remove these doubts and difficulties.

Now, therefore, in exercise of powers conferred by Rule 79 of the Rules, the President is pleased to make the following Orders :-

Short title and commencement (1) These Orders may be called the Constituent Assembly Standing Orders. 2009.

(2) These Orders shall be deemed to have effect from the 31st of October. 1951.

2. Powers in regard to all administrative matters, vested in the Government or any other authority under the K.S. R. shall be exercised by the President in respect of the office of the Constituent Assembly except to the extent to which any of such powers are exercisable by or may be delegated by him. to any other officer under the Rules.

3. (i) The Financial Powers, vested in the Government under the Financial Code and other rules pertaining to financial matters, shall likewise be exercised by the President in respect of the Office of the Constituent Assembly except to the extent to which any of such powers are exercisable by or may be delegated by him to any other officer under the rules.

(ii) In particular and without prejudice to the generality of the foregoing order, the President shall have full powers-

- (a) to write off finally all the irrevocable volume of stores, books or public money lost by fraud or the negligence of individuals or other causes;

- (b) to sanction expenditure upon items specified in the sanctioned Budget estimates;
- (c) to sanction purchase of books and journals ;
- (d) to draw advance to meet his journey expenses or to sanction the drawl of such advances ; in favour of the members of the Constituent Assembly or the officers working in the office or borne on the Budget of the Assembly ;
- (e) to sanction-advance from the G. P. Fund in the case of all officers under his control.

4. For the purpose of paras 2 and 3 references to the Finance Department in the K. S. R. the Financial Code or any other order, shall be deemed as reference to the Finance Committee of the Constituent Assembly.

5. In regard to disciplinary matters, the provisions of the K.S.R. (General) shall be applicable to the staff engaged in the Office of the Constituent Assembly and the President shall exercise complete control and full powers under the said rules over the said staff.

Dated : Srinagar,.

8th **November, 1952**

(Sd.) G M.SADIQ,
President,
J & K Constituent Assembly

Hon'ble President : This finishes today's business of the Constituent Assembly. The discussion on the main resolution will commence tomorrow at 12noon. So I adjourn the House till tomorrow when the Legislative Assembly will meet first at 11 A. M. and the Constituent Assembly thereafter.

☛ **Note :** The House adjourned till the 19th November, 1952.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY SIXTH SESSION

Srinagar, November, 1952.

Wednesday, the 19th November, 1952/5th Maghar, 2009.

The Constituent Assembly met in the Assembly Chamber at 12 noon.

Mr. President (Hon'ble G. M. Sadiq) in the Chair;

Hon'ble President: Mr. Habib Ullah may move his amendment to the resolution relating to the **Sadar-i-Riyasat** moved yesterday by Hon'ble G. L. Dogra.

Hakim Habib Ullah:- Sir I move that in part one of the resolution wherein the emoluments of the **Sadar-i-Riyasat** have been proposed as Rs. 5.500 per mensem "the figure Rs. 5.500 should be deleted and instead Rs. 3.000 should be inserted"

In this connection I submit that the monthly emoluments that have been proposed for the **Sadar-i-Riyasat** are five thousand and five hundred rupees. But it is necessary to consider in this connection that this amount would impose a heavy burden on the exchequer of our State. The savings from this amount may be distributed among the poor people and the low paid employees so that their condition could improve and greater burden may not be imposed on the State treasury. I, therefore, move that only a sum of Rs. 3,000 may be sanctioned instead of five thousand and five hundred rupees.

Mr. Abdul Khaliq Bhat:- Sir, I support it.

Mr. Chuni Lai Kotwal:- I do not want to move my amendment.

Hon'ble President: There are two amendments before the House. One is by S. Harbans Singh Azad to the effect that, in clause after the word '**Sadar-i-Riyasat**' a comma' and the words "members of his family and staff" shall be added.

The other amendment by Mr. Habib Ullah is like this that the emoluments of **Sadar-i-Riyasat** i.e. Rs. 5,500 per month be deleted and Rs. 3.000 per mensem be inserted.

Mr. Ram Piara Saraf: Sir. I want to introduce further amendment to the one proposed by S. Harbans Singh Azad, that the following words may be added after **Sadar-i-Riyasat**, i. e, "and members of his family while traveling with him".

Hon'ble GL L. Dogra:- Sir. it would be better if these words are inserted "members of his family accompanying him" and amendment to clause 9 will read thus :--

"The **Sadar-i-Riyasat** or any member of his family and staff accompanying him shall be entitled to stay free of rent in any Dak Bungalow or any Rest House maintained by the Government."

Hon'ble President : Do you accept it ?

Hon'ble G. L. Dogra:- I accept it.

Hon'ble President:- What is the final form of the amended clause ?

Hon'ble G L. Dogra : The **Sadar-i-Riyasat** and any member of his family or staff accompanying him shall be entitled to stay free of rent in any Dak Bungalow or Rest House maintained by Government".

Hon'ble D. P. Dhar:- Sir, may I say that word 'or" will not be appropriate because if 'or' is used then we shall have to add or the both after the word 'staff' then it will read as follows:--

The **Sadar-i-Riyasat** and any member of his family or staff or both accompanying him.....

Hon'ble G. L. Dogra:- Sir, it would be better that and/or may be entered.

Hon'ble M. A. Beg:- Sir. I do not know what will be the correct form but according to law the convention is to use ordinarily "he or she" but here after the words Sadar-i-Riyasat and any member of his family or staff accompanying him the word "or" will be more appropriate;

***Mr. Assad Ullah Mir:-** Sir, it would be more correct to insert after the words "**Sadar-i-Riyasat**" a comma and the words "his family and any member by his staff accompanying him".

Hon'ble President: Then its actual form will be this:--

The **Sadar-i-Riyasat**, any member of his family and the staff accompanying him.

If any Hon'ble Member wishes to say anything on the amendment of Mr. Habib Ullah which is under consideration of the House he can do so.

***Hon'ble Prime Minister:-** Sir. I would request the Hon'ble Member ' that he may not press his amendment because the pay which has been proposed on the **Sadar-i-Riyasat** in the resolution is subject to income-tax. A very small amount remains after deducting the tax from it. We have to see that the pay of the **Sadar-i-Riyasat** corresponds to the pay of the Governors of Provinces. If you deduct the income-tax on Rs. 5,500 a very small amount remains. If you fix Rs. 3,000 and levy income-tax even on that then about twelve hundred rupees would be left which is inadequate. We should not go to these extremes. After all he is the Head of the State and has to maintain his status. His position would after all represent the position of everyone in the State. His respect is not his alone but of the entire country. The emoluments proposed have been fixed by us in consultation with the Government of India. After these submissions, I hope the Hon'ble Member will not press his amendment. However, I oppose this amendment.

Hakim Habib UisAh Shah:- The explanation of the House of the Leader

☛ **Note:-** At this stage the House burst into laughter.

Hakim Habib Ullah:- After the elucidation by the Leader of the House I withdraw my amendment

Hon'ble President : Mr. Hakim Habib Ullah wants to withdraw his amendment. I believe that the House permits him.

☛ **Note:-** The House agreed and the amendment was withdrawn.

Hon'ble President: I now put this resolution as amended to the House.

In pursuance of para 5 of the Resolution of the Constituent Assembly dated the 21st August. 1952 this Assembly resolves that the emoluments, allowances and privileges of the **Sadar-i-Riyasat** shall be as follows :--

1. **Emoluments:-** The emoluments of the **Sadar-i-Riyasat** shall be Rs. 5.500 per mensem.
2. **Allowances:-** In order that the **Sadar-i-Riyasat** may be enabled to discharge conveniently and with dignity the duties of his office there shall also be

paid in each year for each of the purposes specified below such amount, not exceeding the maximum amount provided hereunder as may be required by the **Sadar-i-Riyasat** :

	Maximum amount provided.
(i) Sumptuary allowances	Rs. 15,000
(ii) Staff and Household	Rs. 75,000
(iii) Tour expenses	Rs. 10,000
(iv) Allowances or miscellaneous expenses	Rs. 9,000
Total	Rs. 1,09,000

Note:- The grants specified above shall be operated upon in consultation with the Government.

3. The **Sadar-i-Riyasat** may in case of necessity in consultation with the Government sanction re-appropriation in respect of the grants specified in para 2.

4. (1) The Sadar-i-Riyasat shall, throughout his term of office, be entitled without payment of rent or hire, to the use of his furnished official residences and of motor vehicles specified in the Schedule to this resolution, and the maintenance of such residences and motor vehicles shall be at the State expenses.

(2) The items specified in the Schedule may be varied or amended by the **Sadar-i-Riyasat** with the concurrence of the Government.

Explanation:- For the purposes of this order:-

(a) "official residence" means the official residence or residences to be specified by the Government by notification and include the staff quarters and other building appurtenant thereto and the gardens thereof:

(b) maintenance in respect of motor vehicles specified in the Schedule would include pay and allowances of Chauffeurs and the provision of oil and petrol.

5. There shall be paid to the **Sadar-i-Riyasat**, in connection with his assumption of office, an allowance equal to his actual expenses in traveling, with his family, if any, and his family effects, to take up his duties, and a similar allowance on his vacating the office to return to the place where he ordinarily resided at the time of his appointment.

6. **Privileges:-** Customs duties shall be levied on the following articles imported or purchased out of bond by the **Sadar-i-Riyasat** during his tenure of office:-

- (a) articles for the personal use wear or consumption of the Sadar-i-Riyasat, or any member of his family ;
- (b) food, drink and tobacco for consumption by members of the **Sadar-i-Riyasat's** household or guest whether official or not ;
- (c) articles for the furnishing of any of the **Sadar-i-Riyasat's** official residence;
- (d) motor-cars provided for the **Sadar-i-Riyasat's** use.

The **Sadar-i-Riyasat** shall be entitled to the free supply of water and electricity for his domestic use.

8. All motor vehicles specified in the Schedule to this resolution! And any private car owned or maintained by the **Sadar-i-Riyasat** shall be exempted from the payment of any toll or tax leviable under any statute or bye-law.

9. The **Sadar-i-Riyasat**, any member of his family and the staff accompanying him shall be entitled to stay free of rent in any Dak Bungalow or House maintained by the Government.

Sadar-i-Riyasat, shall be instituted during his term of office in any Court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as **Sadar-i-Riyasat**, until the expiration of two months next after notice in writing has been delivered to the **Sadar-i-Riyasat**, or left at his office stating the nature of the proceedings, the cause of action therefore, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

(4) Without prejudice to the remedy that may be prescribed by the Constituent Assembly under para 8 of its Resolution dated 21st August. 1952. in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of **Sadar-i-Riyasat** the **Sadar-i-Riyasat** shall not be answerable to any of the Court for the exercise and performance of the powers

and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties under the Jammu and Kashmir Constitution Act:

Provided that nothing in this para shall be construed as restricting the right of any person to bring appropriate proceedings against the State Government.

11. This resolution shall have effect from date of assumption of office by the Sadar-1-Riyasat.

SCHEDULE

Motor-cars	Two
Jeep	One
Station-wagon	One
Motor-cycle	One

The Hon'ble Members who support this resolution may say "Yes" and those who are against it may say "No".



Note :- The motion was adopted unanimously.

Hon'ble President:- Hon'ble Girdhari Lal Dogra.

Hon'ble G. L. Dogra : Sir, when the Constituent Assembly framed its Rules the condition of service regarding pay, leave etc. of the President in India or other countries were not available to guide us in prescribing the conditions of service for the President of this Assembly. It was therefore, considered proper that the conditions of service obtaining with regard to the Minister should be prescribed in the case of the President of the Assembly. The matter came up before the Finance Committee that if the President of the Assembly goes outside the State or India what conditions should govern his leave etc. Full consideration was given to this matter and the terms prescribed for the President of the Constituent Assembly of India were carefully studied and it was found that the President of the Indian Parliament is considered to be on duty whether he is in India or goes outside India. These very conditions have been prescribed for the Speaker of the Indian Parliament. He is also considered on duty whether in the country or outside it, ^because he has to issue different kinds of orders in connection with

the Constituent Assembly. For this reason it was necessary to define the terms and remove ambiguity resulting in a deadlock. Under the previous conditions the President of the Assembly could draw his pay for one month while on leave but under the new proposals he can issue orders during the course of his leave. It was, therefore, considered necessary that item No. 1 (VI) be deleted from the Schedule and I would like to place this resolution through you. Sir, before this House so that it may be passed. These are the words of the resolution:

"This Constituent Assembly resolves that the sub-joined resolution passed by the Finance Committee of the Assembly on the 14th of November, 1952, be adopted and that the words "privilege leave as for permanent Government Officers' appearing against item No. 1 (v) of the Schedule attached to the resolution regarding the appointment of the Finance Committee passed by the Constituent Assembly on the 5th November, 1951 be deleted."

RESOLUTIONS PASSED BY THE FINANCE COMMITTEE ON THE 14TH OF NOVEMBER. 1952

"Resolved that the **Hon'ble President**, Jammu and Kashmir Constituent Assembly, will be entitled to draw his full salary throughout the period of his tenure of office irrespective of his absence from India or the State at the time of the Sessions of the Constituent Assembly or otherwise on the analogy of the Speaker of the Indian Parliament and the President of the Constituent Assembly of India.

Further resolved that the approval of the Constituent Assembly to the deletion of the words "privilege leave as for permanent Government Officers' appearing in the resolution passed by the Constituent Assembly on the 5th of November, 1951, may be obtained as advised by the Constitutional Advisor in accordance with the practice prevailing in the Constituent Assembly and the Parliament of India."

Hon'ble Sham Lal Saraf: I support it.

Hon'ble President: The question which awaits decision is this.

☛ **Note:-** Repeats the above resolution.

Hon'ble President:- The Hon'ble Members who support it may say "Yes" and those who oppose it may say "No".

☛ **Note:-** The motion was adopted unanimously.

Hon'ble President:- Hon'ble Girdhari Lal Dogra.

Hon'ble G. L. Dogra : Sir, this House had appointed a Finance Committee Consisting of four members with your goodself as its Chairman. Maulana Mohd. Saeed Masoodi was also one of its member. Since he has gone to the Indian Parliament, his seat on the Finance Committee is lying vacant. I propose that Mr. Mir Qasim be elected in his place.

Hon'ble President : The question is that Mr. Mir Qasim may be appointed to the vacant seat on the Finance Committee. Those who support this proposal may say "Yes" and who are against it may say "No"

Note:- The motion was adopted.

Hon'ble President:- The work which was before the Constituent Assembly in this session has finished. I would ask the permission of the House to adjourn this House sine-die.

☛ **Note:-** The House agreed.

Hon'ble President: I adjourn the session of the Constituent Assembly sine die.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

6th Session

Vol. VI/No. 1 Friday, 10th April, 1953/20 Chet, 2009

The Constituent Assembly met in the Assembly in the Assembly Chamber, Grey Hall. Jammu at three O'Clock.

Mr. President (Hon'ble G ML Sadiq) in the Chair.

Mr. President (Mr. G. M. Sadiq) : Hon'ble Mr. G. L. Dogra.

Shree G. L. Dogra : Sir, I move that :-

- (a) "This Assembly do accord its sanction to the estimates of expenditure of the Assembly amounting to Rs. 3,60,675/- for the Sam vat year 2010 as shown in the enclosed statement prepared by the Finance Committee; and
- (b) this Assembly also accords its sanction to the supplementary grant of Rs. 12,379/- approved by the finance Committee during the course of the year 2009 provided to meet the payment of the Telephone Department for installation of a new permanent Telephone line and connections in the Assembly building, Srinagar."

Sir, so far as the Budget of this House is concerned, it could be passed by the Constituent Assembly alone. A Finance Committee has been appointed for this purpose which has carefully examined these estimates, totals whereof come to Rs. 3,60,675, out of which an amount of Rs. 2,20,800 will be expended by way of T. A. and D. A. to Hon'ble members ; and the expenditure of the Secretariat comes to Rs. 73,840 only. As far as the Finance Committee was concerned, it has, after due consideration and fixation of new grades reduced the expenditure as much as possible. With these words I place this Budget before the House. (For Budget estimates vide Appendix 'A').

Pandit S.L. Saraf (Health Minister): I second it.

☛ **Note:-** The star mark indicates that the speech was delivered in Urdu and English translation thereof has been incorporated in the debates.

Mr. Ram Piara Saraf:- Point of information, Sir! I want to ask two questions:— Firstly this budget had to be passed along with the General Budget; and secondly the posts of Chief Parliamentary Secretary and the other Parliamentary Secretaries though forming a part of the Legislative Assembly have been shown in the present budget, I want to know whether it is right to show these items in the Constituent Assembly Budget.

***Shri G. L. Dogra:-** Sir, I want to submit that it is very difficult to draw a line of distinction between the work of the Constituent Assembly and the Legislature. The Legislature has not the same powers as are vested in the Constituent Assembly. Anyway, since it (Constituent Assembly) is a supreme body this House can pass expenditure and can pass any Act. The objection raised has no force.

Mr. Ram Piara Saraf:- Sir, only the Constitution Assembly budget was to be presented today, but Parliamentary Secretaries have also been included in it. I want to know whether it is necessary to obtain the permission of the Constituent or the Legislative Assembly for Parliamentary Secretaries.

Mr. G. L. Dogra:- Sir, this House can pass any estimates whether these pertain to the Legislative Assembly or to the Constituent Assembly. This is a Supreme House and can pass any motion that before it. There is absolutely no restriction on the Constituent Assembly in view of its being a supreme body, it can pass anything. At the same time, if you separate its budget into various sections and try to separate T. A. and D. A. of the Legislative Assembly, it would result in a lot of confusion. Therefore, it was thought proper by the Finance Committee that expenditure pertaining to any activity of these two bodies should come before this House. There is absolutely no irregularity.

***Mr. Assad Ullah Mir:-** Sir, we have already passed the General budget wherein the salary, T. A. and D. A. etc. of the **Hon'ble President**, the Members and also

the Parliamentary Secretaries are included. Now, the question arises whether we should pass these items again.

***S. Harbans Azad:-** I think Saraf Sahib has some misunderstanding. This Assembly functions both as a Constituent Assembly as well as a Legislature and will continue to function as such till the Constituent Assembly complete its work. If you wish to make a distinction between the staff allowances and T. A. of the two Assemblies, then nothing but confusion will result and many difficulties are apt to crop up. The members of this i-louse besides being members of the Constituent Assembly, function as members of the Legislature as well, and if the Constituent Assembly does not consider the budget on the plea that this head has already been passed under the General Budget then in that case the D. A. of the Legislative Assembly shall have to be incorporated in the budget of the latter for the remaining period in the budget of this House. Consequently in that case the members could get only one day's D. A. The **Hon'ble President** functions as Speaker as well, and in case he functions as Speaker for 29 sittings out of 30 days and as president for one day, his salary will have to be bifurcated with the result that there will be nothing but complications. If you peruse the rules of the Constituent Assembly, you will see that the mere passing of Constituent Assembly budget in the Legislative Assembly is not enough. The budget of Constituent Assembly can be passed only by the Constituent Assembly and till the Constituent Assembly completes its work and is converted into Legislature, the practice as in vogue heretofore will continue. The objection, therefore, that the salaries of Parliamentary Secretaries should not be included in this budget is un-warranted. Parliamentary Secretaries are members of both the Houses like other members.

***Mr. President (Mr. G. M. Sadiq):-** The difficulties pointed out are as a matter of fact inherent in our work. Our Constituent Assembly has of necessity to function as Legislative Assembly although basically this house is a Constituent Assembly. Some of the members of this House have to discharge additional duties of Parliamentary Secretaries when the House functions as a Legislative Assembly. As far as their Salaries and T. A. is concerned, these as pointed out by Mir Asad

Ullah, have been incorporated in the General budget which includes Pays and T. A. to Parliamentary Secretaries. As this budget has been passed by the Legislative Assembly only yesterday, therefore, Mr. Saraf is objecting to the inclusion of pays and T. A. of the Parliamentary Secretaries in Constituent Assembly budget. In this connection, I wish to inform the House that as far as the budget of the Constituent Assembly is concerned, it can be passed only by the Constituent Assembly and if anything in this behalf was done in other House, it was purely formal. Under the rules action on the Constituent Assembly budget has to be taken in this House. If any action, therefore, has been taken in the other House, I am precluded from answering that nor shall I allow raising of objections to that effect. Now the question is that:-

- (a) "This Assembly do accord its sanction to the estimates of expenditure of the Assembly amounting to Rs. 3,60,675 for the Samvat 2010 as shown in the enclosed statements prepared by the Finance Committee".
- (b) This Assembly also accords its sanction to the Supplementary Grant of Rs. i 2,379 approved by the Finance Committee during the course of the "Year, 2009 provided to meet the payment to the Telephone department for installation of a new permanent telephone line and connections in the Assembly Building. Srinagar".

☛ **Note:-** The Motion was adopted.

***Shri G . L. Dogra:-** Sir When this Assembly came into being a Committee was appointed, the members of which were authorized to examine and recommend the rates of T. A. & D. A for members and fix salaries to be paid to whole time servants. And as for as **Hon'ble President** was concerned, his conditions of service were fixed on the same basis as those for Ministers. There was. however an omission regarding the rate of allowance to be paid to the President at the time of Move of offices from Srinagar to Jammu and vice versa ; and the rate of T. A. and D. A. payable to the President within the limits of the State. As it has

not been made clear yet and the matter is open to objection by the Audit, more so in view of absence of any provision to this effect in the Rules, it is expedient to amend the schedule. Keeping in view this background, I therefore move:-

"This Assembly resolves that for item (iv) of the Schedule appended to the Resolution of the Constituent Assembly dated the 5th November, 1951, regarding the appointment of the Finance Committee, the following shall be deemed to have been substituted with effect from 5th November. 1951 namely:-

(iv) T. A., D. A., and other amenities as admissible to a minister, under any Law. Rules or order for the time being in force".

Mr. G . M. Hamdani:- I second the motion made by the learned mover.

Mr. President (Mr. G . M. Sadiq):- The question is that -"Repeat the above".

☛ **Note:—**The Motion was adopted.

Mr. President (Mr. G . M. Sadiq):- Now under Rule 19, I seek the permission of the House to adjourn the Session of the Constituent Assembly till such date as I shall announce latter.

☛ **Note:-** The House agreed

***Mr. President :** In exercise of the aforesaid powers vested in me. I adjourn the Session of this House till such date as I shall announce some time later
Before the members leave I, wish to inform them that the Session of the Legislative Assembly will commence at 11 A.M on the 14th of April.

☛ **Note:** The House adjourned till Tuesday, the 14th April. 1953.

PPENDIX 'A'

Budget Estimates of the Constituent Assembly for the year, 2010 as approved by the Finance Committee for submission to the Assembly.

For the purpose of farming the Budget Estimates of the Assembly for the year S. 2010 as required by section 74 (1) of the Rules of Business and

Procedure of the Constituent Assembly, the Finance Committee of the Constituent Assembly held its sittings on the 20th and 21st of February, 1953 under the Chairmanship of Hon'ble President after full discussion and with due regard to effecting economy wherever possible, the Committee has finally approved the Estimates which are submitted for sanction of the Assembly.

A perusal of the abstract of the Estimates will show at a glance that :-

- 1. Salary Honorarium, and Traveling Allowances:** Out of the total demand of Rs. 3.60.675 an amount of Rs. 2.20.800 goes to meet the expenditure on account of the T. A. and D.A. of Members, Salary of the **Hon'ble President** and honorarium of the Parliamentary Secretaries. The amount has been estimated according to the rates sanctioned by the Assembly and the figure has kept at the last year's level.
- 2. Secretariat:** The expenditure on the Assembly Secretariat has been estimated at Rs. 73,840 against Rs. 68,043 provided for the last year to meet pay dues and allowances. The increase is due to the annual increments due to the staff and also to make provision for the newly created posts. Similarly the expenditure on the Constitution Branch has been estimated at Rs. 10,253 against 9,780 provided for the last year for meeting pay dues and annual increments due to the concerned staff.
- 3. Miscellaneous Grants:** Under the head Miscellaneous Grants considerable reduction has been effected and the grant brought down from Rs. 47,000 to Rs. 35,000. Grants under all sub-heads have been decreased excepting Printing under which an increase of Rs. 5,000/- has been proposed to meet the larger demand of printing due to the increasing volume of the work to be printed.

SUPPLEMENTARY GRANT

During the course of the Year. 2009 a provision of Rs. 12,379 was asked for to meet the charges of the installation of permanent telephone connections in the Assembly buildings at Srinagar which needed the setting up of a new

permanent telephone line from the Exchange through Basant-bagh across the river to the Assembly Secretariat.

As advised by the Finance Department and approved by the Government the payment for this work was made by the Assembly office during the course of the year by arranging supplementary grant to the above extent with the approval of the Finance Committee. The supplementary demand is, therefore, also submitted to the Assembly for confirmation.

(Sd.)

HIRANANDRAINA

Secretary,

J&K Constituent Assembly.

BUDGET ESTIMATES OF THE ASSEMBLY FOR S. 2010 AT A GLANCE.

(1)	Assembly:		
(a)	T. A. and D. A. to the Hon'ble Members of the Assembly	1,80,000
(b)	Honorarium to the Chief Parliamentary Secretariat and four other Parliamentary Secretaries at Rs. 600/- and Rs 400/- P. M. respectively	26,400
(c)	Allowances to the Hon'ble President and car maintenance allowance	14,400
	Total :		<u>2,20,800</u>
(2)	Assembly Secretariat:		
(a)	Salaries of 5 Gazetted Officers	18,475
(b)	Pay of Establishment i. e. Reporters,		

Translators. Stenographers and the General Branch	43,765
(c) Dearness. Ration and other allowance	11,600
Total :	<u>73,840</u>
(3) Constitution Branch :	
(a) Salary of Joint Secretary	5,425
(b) Pay of 2 Const. Assistants and One Clerk	4,810
Total :	<u>10,235</u>
(4) Miscellaneous Grants:	
(a) Printing of Proceedings and cost of Paper and Stationer} (Debit-able to G-29)	20,500
(b) Improvement of Library	8,000
(c) General T.A. to the Officers, Parliamentary Secretaries and the Staff.	13,600
(d) Other contingent grants ...	13,700
Total :	<u>55,800</u>
Grand Total :	<u>3,60,675</u>

Dated:- Jammu, the
31st March, 1953

(Sd.)
HIRANAND RAINA
Secretary
J&K Constituent Assembly

FORM B – 3

Major Head: G – 9

Minor Head: Constituent Assembly

S. 2010

**Primary
Unit**

Details

Amount

Pay of

Officers **Hon'ble President** @ Rs 1,000 P. M 12,000

(a).

1	Secretary (400-25-600) on his personal pay of Rs, 700 P.M. ...	8,400
1	Chief Parliamentary Secretary (Rs. 600 P.M.) ...	7,200
4	Parliamentary Secretaries (Rs. 400 P.M. each) ...	19,200
1	Joint Secretary (Rs. 400-25-600) ...	5,425
1	Under Secretary (Rs. 200-20-300) ...	3,475
1	P. A. to the Hon'ble President (Rs. 200-20-300) ...	2,740
1	Watch and Ward Officer (250-10-250) ...	1,975
1	Marshal (150-10-250) ...	1,885

Total : 62,300

Primary	Details	Amount
1	Pay of establishment	
2	Assistant for constitution Branch (150-10-250)	3,840
1	Chief Reporter (150-10-250)	2,097
1	Senior Translator (150-10-250)	1,885
1	Legislative Assistant (150-20-250)	1,800
3	Reporter (100-10-200)	4,800
3	Reporter (90-6-150)	3,572
2	Stenographers (90-6-150)	2,806
3	Translators (100-10-200)	2,520
2	Translators (90-6-150)	3,372
	Pay of Establishment:	
2	Head Clerks(90-6-150)	2,985
1	Accountant (90-6-150)	1,185
1	Librarian (90-6-150)	1,130

(Contd.....)

1	Assistant Librarian (75-5-100)	900
1	Cashier (75-5-100)	985
7	Clerks (50-5-200)	5,599
1	Watch & Ward Clerk (50-5-100)	685
3	Junior Clerks (40-4-80)	1,713
1	Stencil Writer (Katab) (40-4-80)	526
1	Press Mechanic (40-4-80)	526
1	Daftri (30-2-50)	383
1	Car Driver (75-5-100)	1,200
1	Despatch Rider (75-5-90)	900
1	Jamadar (16-1/3-19)	228
4	Watch & Ward Men (12-1-1/3-15)	576
4	Messenger Boys (12-1/3-15)	576
12	Peons including Farash (12-1/3-15) (1)	1,810

Total: 48,575

Other allowances & Honoraria

Dearness allowance	...	4,050
Ration Allowance	...	3,040
Temporary Move allowance	...	3,650
Duty allowance	...	360
Allowance for engagement of additional temporary hands	...	<u>500</u>

Total : 11,600

Traveling allowance

D.A. and T.A. to the HoiTble members.	...	1,80,000
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Primary Unit	Details	Amount
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Other T. A. and T. A. to the Parliamentary Secretaries)

Maintenance of Car and free conveyance		<u>16,000</u>
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Total: 1,96,000

Contingencies.

Postage and Telegrams. Telephones

subscription and Trunk	...	700
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Call charges	...	2,000
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Other Contingencies	...	8,000
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improvement of Library	...	8,000
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Entertainment grant	...	1,000
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Bye-Election grant	...	1,000
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Total : 20,700

Supplies & Services.

Replacement surcharges

of two Gestetner machines...		<u>1,000</u>
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Total: 1,000

G 29	Stationery	5,000
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Stationery	Printing of Proceeding etc. at	
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And Printing	Govt. and Private Presses	
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And cost of paper	15,000
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Printing of Forms	5,000
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Total: 20,500

Grand Total: 3,60,6745

Adopted by the Finance Committee

(Sd.) **HIRANAND RAINA,**

Secretary

J&K Constituent Assembly

Jammu

I crave permission to make a statement before the House in regard to a matter of grave national importance connected with the recent changes that have come about in the State.

1. Before I dwell on the various features of the situation as it develop recently in the State, I wish to make it clear that I and my colleagues have undertaken the responsibilities of Government after carefully weighing the gravity of the events which faced us, It is a painful fact that in doing so we were parting company with some of intimate colleagues. Our political association had naturally given rise to deep affection and esteem for each other, It was, therefore, with much anguish that we were compelled to sever our relations with those colleagues. At a time when the fate of our people was hanging in the balance, any hesitation on our part would have honour and the peace and security of the State would have been gravely threatened.

2. As the honourable members are aware, the Kashmir question has been deliberately complicated in as much as it has been involved with other international issues. This is obvious because at no time has a serious attempt been made to evaluate the case of the people of Jammu and Kashmir on its merits. In the context of this international position of the State, the responsibility of our people becomes all the more heavy. It has got to be recognised that the ultimate guarantee of asserting the will of the people is the ability of the people themselves to withstand the impact of international forces which are working in subtle ways to set them against each other.

3. It is necessary to evaluate the significance of the recent events against this background since we can no longer afford to isolate ourselves from the broader current world history and the burden of our decision becomes weighty when we consider this aspect of our delicate position.

4. It is worthwhile to recall that the State was invaded in 1947 and, subsequently, it established a constitutional relationship with India which enables the people here to defend their freedom, lives and honour. This relationship was a logical consequence of the community of ideals which had guided the national movement of the State in close association with anti-imperialist struggles of the

Indian people. We were fully conscious of the rights and privileges that occurred from accession of the State with India as the Indian Constitution had fully preserved our autonomous position and assured us of the fullest support and assistance for our development.

5. Not only was an honourable position secured for the State by virtue of this relationship but the right of self determination of its people was fully guaranteed by the Indian Constitution. Consequently, in exercise of the right, the Constituent Assembly, came into being to evolve the future constitutional shape and structure of the State.

6. Having been provided with opportunities for self-fulfilment and the realisation of our social and economic objective the Government of State should have been able to afford substantial relief to the people so as to raise their standard of living to a decent level. The Government and the people of India, guaranteed a special constitutional position to our State were always scrupulously respected. The honourable Members know fully well that when we adopted certain decisions with regard to such fundamental problems as land reforms, adoption of a State Flag, the abolition of monarchy etc., our right to do so was not questioned although such radical and far-reaching changes involved adjustments in the Indian Constitution itself. This spirit of accommodation and sympathy for our legitimate and democratic aspirations shown by the people of India is an abiding proof of the fruitfulness of our association with the Union.

7. With all these opportunities and resources at the disposal of the State Government it was expected that an all-out effort would be made to bring about a material change in the economic condition of the masses, but it is a cruel irony amidst the bounties of nature, human beings continued to take out a precarious existence.

8. The National Conference had pledged itself to end these degrading conditions of the people of the State. It had been struggling for nearly two decades to secure power for the people to enable them to improve their lot. And when in 1947 power did at last come into the hands of their representatives, they hailed this with unprecedented joy. People now hopefully looked forward to better

times and richer rewards for their labours. They were eager to participate in the task of national reconstruction.

9. In spite of the clear mandate given to it by the National Conference, the Government did not properly utilize the opportunities that were available to it. This situation needed bold and determined steps to reshape the country in accordance with the social and economic policies of "New Kashmir". But unfortunately, inspite of its earlier enthusiasm and promise the Government failed to assess the needs of the people and satisfy them in an appropriate manner.

10. The National Conference had suggested many an ameliorative measure to improve the condition of the masses but their essence and spirit were killed in the course of administrative handling. As a consequence, the results feel far short of the expectations which these revolutionary measures had evoked among the people.

11. As this House is fully aware the Government announced a broad-based programme of reforms for the improvement of the conditions of the peasantry. The purpose was to render justice to the tiller by resorting to him the right to reap the full fruits of his labour. But what was given to him with one hand was taken away with the other because the manner of implementing these reforms opened avenues of greater corruption with the result that the gift was bereft of the benefit. Moreover, food policies of the Government virtually squeeze the cultivators of all their earning and they wee subjected to a harsh system of exaction. Most of the surplus stocks of food grains went into the black-market even though the agencies of the Government.

12. Another factor which disturbed rural economy and brought further misery to the rural population was the mishandling for the Co-operative movement. As the Hon'ble Members are aware, the principles, underlying this movement are good, but the way in which it was managed in the State made it a mockery. A few individuals monopolised the movement for furthering their own interests. They crippled all local initiative in the country side and themselves indulged in profiteering and black market activities. Things came to such a pass

that a co-operative agency became an instrument, of hardship and popularly the term became an equivalent for tyranny.

13. Besides, the economic life of the village was further dislocated by the complete elimination of credit facilities for the needy agriculturists. Although the liquidation of indebtedness and the usurious system of money-lending had been undertaken, no effort was made to provide alternative means of credit.

14. Similarly, in the spheres of industrial development, employment, health and education, the Government pursued policies which were totally inadequate for the growing needs of our people. Instead of adopting measures for tackling the problems of poverty, illiteracy and backwardness, public resources were in certain cases spent on costly schemes which yielded scarcely any benefits for the common man.

15. These failures and shortcomings in the implementation of the basic policies of the National Conference disturbed the mind of the people generally and provided an opportunity to reactionary elements both outside and inside the State to exploit the situation with a view to precipitating a crisis in the State. This naturally led to the creation of conditions in which the leadership on the one hand refuses obstinately to face facts and meet boldly the needs of the people and on the other, the forces of disruption under cover of alluring slogans, diverted the attention of the people into factional and fissiparous activities. It is obvious that the agitation started by such organisations was highly detrimental to the interests of the country and misleading in terms of its political repercussions. The Government instead of making a sober appraisal of the situation, vacillated and re-acted with acrimony and bitterness. This tendency reached the climax when some of the leaders of the National Conference holding Cabinet position began to talk in terms of communalism with equal virulence and touched off a series of crisis in our political life. In actual fact this course of action was dominated by the desire to escape from the responsibility for its failure to remedy the economic distress of the people. It was, therefore, natural that in order to escape public odium desperate and dangerous remedies had to be devised.

16. The events came to a head in last May when the National Conference Working Committee met at Srinagar. During the discussions which lasted a number of days, differences on major issues became manifest. These differences were not of a minor character but involved a complete departure from the declared policies and programmed of the National Conference. The majority of the members, while advocating a strict adherence to the basic policies of the organisation, sought to focus attention on the need for bold measures of reform and remedy. A small section in Working Committee resisted the correct approach to the solution of the problems facing the country and with a view to maintaining their position an prestige took a stand which was fundamentally opposed to the ideals and principles of the National Conference. They did not merely seek to repudiate all that they had stood for but went to the length of openly advocating positive alternatives for the creation of an "Independent Valley" of Kashmir from the debris of a State shattered to pieces.

17. About the same time Sir, as is well know, a happy change was beginning to come about in the relations between India and Pakistan. After the recent change of Government in Pakistan, it was widely felt there that the interests of that dominion could be best secured by establishing friendship and co-operation with the people of India. This was a desirable change even from the point of view of our problem. Once other outstanding disputes between them were settled amicably, it would be helpful in the creation of necessary goodwill to enable the people of Jammu and Kashmir State to exercise their right of self-determination for ascertaining the future shape and affiliations of their country.

18. So, as I was saying, the meeting of the two Prime Ministers was a welcome development and the peace loving people all over the world blessed their endeavours in restoring friendly relations between the two countries. It was for first time that they were seeking each other's co-operation for the restoration of peace and amity between their people without any foreign intervention. Instead of contributing towards the restoration of a healthy atmosphere conducive to the success of the negotiations of the two Prime Ministers coercive methods were adopted to wreck the chances of an amicable settlement. Fresh obstacles wee

created by bringing in totally novel proposals for the settlement of the Kashmir problem. The two Prime Ministers were proceeding on the assumption that a solution was possible by narrowing the area of disagreement over issues which had been already discussed at length during the course of the last five years. By suggesting alternative solutions which had no relation to the fundamental points of difference between India and Pakistan it was obvious that the negotiations could not yield any successful result. Moreover, such proposals threatened to pave the way for interested foreign powers to operate freely in this part of the world as well, thereby endangering the freedom, peace and security of the entire sub-continent.

19. In pursuance of the suicide policy a virulent campaigning was carried on with a view to rousing the communal and religious passions of the people. The fundamental policies which formed the bedrock of the democratic movement in the State were being reversed. The public mind was thoroughly confused and consequently people became apprehensive. In this unhealthy atmosphere, anti-national elements attempted sabotage and subversion. The country seemed to be on the brink of a great conflagration in which thousands of lives would have perished.

20. The visits of some foreign diplomats and Statesmen about this time gave greater impetus to this disruptive movement and consequently open references were made to the assistance that would be forthcoming for an "Independent" Kashmir. But if I may say so, a call for foreign aid in the present state of international relation was nothing short of political adventure without regard to the grave and far-reaching consequences that would surely follow such a reckless step.

21. In this grave hour of crisis the only guarding of the peoples' rights was the sovereign body of the Constituent Assembly and it was obvious that this alone was competent to sanction any fundamental constitutional change in the structure of the State. No individual, however, great his position may be, can arrogate to himself the powers of this supreme organ of the people's will and it was therefore astounding that the former Prime Minister not only tied to by pass

the Constituent Assembly but publicly challenged its authority and sought to denounce the very constitution which had given him the position he had.

22. Sir, this was the state of affairs which confronted us. On the one hand the constitution was being flouted and on the other, conditions of drift and suspense had reached alarming proportions. Contrary to all canons of democracy the views of the majority, both in the Government and the National Conference executive, which were strictly in conformity with its sanctioned policies and principles were being openly disregarded. Arbitrary methods were being used to force this majority into an acceptance of a violent change of political convictions which directly militated against the interests of the State. We, however, honestly felt that it would be a gross betrayal of the people to be a party to this apostasy and defection. The issues faced us grimly with all their tragic implications. A minority in the Government and the National Conference Working Committee was attempting to wreck the constitution. While holding responsible ministerial offices and being committed to certain irrevocable decisions, this section of the leadership tried to wriggle out of its obligations which they owed to the country and its constitution by taking recourse to agitational and subversive methods.

23. By this time, the administrative machinery had thoroughly been paralysed, causing further suffering to the people. Flouting the principle of joint responsibility and collective functioning, measures were adopted to gain political support for new-fangled plans surreptitiously. It was a heart-rending spectacle which no patriot could suffer with equanimity and complacency.

24. The crisis came to a head when the resignation of one of the Cabinet colleagues was demanded to the amazement of everyone. The motive behind this unwarranted and uncalled for action was to reduce the majority of their opponents. What political pressure and persuasion had to be achieved from them was sought by back-door and dubious methods.

25. The Hon'ble Members can/will imagine what explosive possibilities were opened by such highhanded policies. I and my colleagues had to do something in order to arrest this dangerous situation before it would worsen

beyond control. We considered the issues coolly and dispassionately and we were led to the conclusion that any further delay in taking position steps would be fraught with grave consequence for the State. If we had faltered at this grave hour of crisis we would have been lacking in our duty to our people. Consequently, we adopted the only course open to us, we decided to part from our colleagues as their approach and attitude was clearly inimical to the freedom and progress of the State, drawing his attention to the conditions which had come about as a result of the major differences in our respective points of view. We conveyed our considered opinion that in these conditions the Government, as constituted then, could not be efficient or effective in handling the affairs of the State.

26. The Sadar-i-Riyasat intervened at this stage and asked the Prime Minister to bring about harmony and unity in his Government and for this purpose he suggested a meeting of his colleagues at his residence, but the Prime Minister clearly evaded the issue and declined to accept the advice of the Sadar-i-Riyasat. As Head of the State, it devolved upon the Sadar-i-Riyasat to act in accordance with the requirements of the constitution and the House can well appreciate his responsibilities in this behalf. He was anxious that peace and security of the citizens should not be disturbed. It was obvious that the majority in the Cabinet being opposed to the policies and plans advocated by the Prime Minister and one of his colleagues, and the refusal of the Prime Minister to the efforts of the Sadar-i-Riyasat for composing the differences in the Cabinet, the only course which the Head of the State could adopt was to dissolve the Council of Ministers.

26. Subsequently the Sadar-i-Riyasat called upon me to form the Government and I was faced with a grave decision. Considering the seriousness of the situation, and delay in giving the people a Government, working harmoniously in accordance with the declared policies of the State, would have created further complications. I immediately consulted my colleagues and they were of the opinion that I would accept the burdens of this great responsibility in

order to preserve the peace and security of the State. I accordingly obeyed their decision and assumed the responsibilities of the Head of the Government in a spirit of resignation and humility.

28. As Prime Minister of the new Government, it was my painful duty to prevent our erstwhile colleagues from continuing in their activities which would surely result in a holocaust. We were, therefore, constrained to detain them under the laws of the State.

29. Sir, I regret that owing to the conditions prevailing so far it was not possible for me to secure the sanction of the Legislature for the assumption of my new duties as the first servant of the people. Now, that we are meeting after these momentous changes. I hope I shall have the benefit of co-operation, advice and confidence of the House in the discharge of my responsibilities. I and my colleagues can continue in office only if we have to support of the House. The times are critical and in the task of preserving freedom, peace and honour of millions of our fellow countrymen, we need your fullest support and co-operation.

On my part, I wish to assure you that given the confidence we shall constantly be guided by the wishes of this House in the discharge of our duty.

May God give all of us the will and the strength to serve the people to the best of our ability and may He in His Mercy protect the State from all evil.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

Srinagar, October Session, 1953.

Tuesday, the 20th October, 1953/4th Katik, 2010

The Assembly met in the Assembly Chamber, Srinagar at Eleven of the O'clock.

Mr. President (Hon'ble Mr.G.M.Sadiq) in the Chair:

Mr. President : There is an adjournment motion, given notice of by Mr. Abdul Gani Goni ! Will you move it ? (addressing Mr.Goni).

Mr. Abdul Gani Goni : Sir, I move that the business of the Constituent Assembly be suspended till the release of all the members who were arrested after 8th August, 1953.

Mr. President: May I know under what rule the Hon'ble member is moving it ?

Mr. Abdul Gani Goni : Sir, this is under rule 25, article 5, sub clause (a) page 12, of the Rules of Procedure of the Constituent Assembly and then section 26.

Mr. President : Do you seek permission under clause 26 ?

Mr. Abdul Gani Goni : Yes, Sir.

Mr. D.P.Dhar : Point of order Sir. The adjournment motion as it is, does not conform to the requirements of rule 26. if you permit me, I will read rule 26. It reads :-

“there shall be no motion for an adjournment of the Assembly for the purpose of discussing any matter not included in the Orders of the Day, or not connected with the work of the Assembly”. This rule 26 envisages discussion of a matter which is either entered in the Order of the Day, or is connected with the work of this Assembly. The adjournment motion does not seek discussion. It only proposes that the work of the Assembly be suspended till some Hon'ble members of this Assembly, who are under detention, are released. Therefore the question of discussion is very irrelevant to the requirements of rule 26. I, therefore, feel Sir, that under rule 26 and in view of the fact that the adjournment motion framed, as it is, is not in order.

Mr. Abdul Gani Goni : Sir, I would submit, that the adjournment motion, as it is, is quite in accordance with rule 26 and exactly relates to the business of the Assembly, especially, when I see the agenda before me . Today we are dissolving two committees namely the Basic Principles Committee and fundamental Rights and Citizenship Committee and also their Chairman by introducing two new resolutions entered in the Orders of the Day. I think and I shall humbly submit, Sir, that my motion is connected with the work of the Assembly, because we are dissolving two Committees, already set up by this Assembly, by introducing some particular resolution. According to this

explanation, Sir, my motion is quite in order. Under the rules President is supposed to preserve our rights.

Mr. President : Will the Hon'ble member please read out the text of the motion ?

Mr. Ghulam Mohi-ud-Din Hamdani : Point of order, Sir. The matter is of a very important nature. I would request that the proceedings of the House be conducted in Urdu.

Mr. Abdul Gani Goni : All right Sir, I will speak in Urdu.

* **Mr. Abdul Gani Goni** : Sir, I would like to request that my adjournment motion means that unless.....

Mr. D.P. Dhar : Sir, could it be in English.

* **Mr. Abdul Gani Goni** : Sir, I have already read it in English. I move that the business of the Constituent Assembly be suspended till the release of all the Assembly members who were arrested after 8th August, 1953.

Mr. President : And now the Hon'ble member will read Rule 26.

Note:- (The Hon'ble member read out Rule 26)

Mr. Abdul Gani Goni : I would submit, Sir, that this is quite connected with the business of the day.

Mr. President : The objection is not that the adjournment motion pertains to a matter which is not before the House or on the Orders of the Day. The objection mainly relates to the point that in the adjournment motion request has not been made for adjournment of the House for the purpose of discussing a particular matter, but on the other hand, the House has been asked to be adjourned till an indefinite date. If the Hon'ble member wishes to speak on that point, he can do so.

Mr. Abdul Gani Goni : My intention is that the adjournment motion which I have explained be discussed in the House.

Mr. President : We are not concerned with the intentions of the Hon'ble member in this House.

* **Mr. Abdul Gani Goni** : But that is the intention of my motion.

Mr. D.P. Dhar : Sir, what the Hon'ble mover has said really falls into three categories:-

- (a) with regard to his intention, I would submit that intention unfortunately is not reflected adequately or clearly in the adjournment motion as it has been framed.
- (b) Secondly the relevancy of the matter which has been raised in this adjournment motion, I am afraid, is very doubtful, because the Hon'ble member does not seek to discuss any matter connected with the business of the House but seeks to suspend the functionary of this sovereign organization for a period of which in his mind is not also clear. In other words through this adjournment what we are asked is to completely nullify the status of this sovereign body and to wait for an indefinite period.

So my humble submission would be that so far as the very language of the adjournment motion is concerned it does not conform even to the slightest requirements of rule 26 which is relevant to the subject.

* **Mr. Abdul Gani Goni :** Sir, I protest against the remarks of Mr. D.P. Dhar that I challenged the sovereignty of this Assembly.

This matter is interconnected with this Assembly because you are dissolving a committee which has done a lot of work. It has already come in newspapers also.

Mr. Mir Qasim : Sir, I am not aware if the report has been published in any newspaper.

* **Mr. Abdul Gani Goni :** I can produce the paper in which the report has been published.

The members of this House have worked in the Committee and enough of money has been put on it but today, instead of putting forth the report of previous Committee a new Committee is being formed.

Mr. Girdhari Lal Dogra : Sir, is he discussing the adjournment motion or relating the merits of the case ?

Mr. Abdul Gani Goni : What I speak is quite relevant.

Mr. President : Today in the morning, Mr. Abdul Gani Goni gave the notice of an adjournment motion which intends that the business of the House be suspended till the release of all the Assembly members who are under detention at present. Mr. Goni has given the adjournment motion under section 26 of the Rules of Business and Procedure of the Constituent Assembly. As far as section 26 of the Rules of Business and Procedure of the Constituent Assembly is concerned, it clearly states that, "there shall be no motion for an adjournment of the Assembly for the purpose of discussing any matter not included in the agenda or not connected with the work of Assembly". But so far as the adjournment motion of Mr. Goni is concerned, the main objection to it which I have already pointed out, can be that he has not mentioned in his adjournment motion that he want to discuss this matter. He seeks to suspend the functioning of this House for a period about which he is not clear himself. The words used in the text of the adjournment motion make it evident that he want to adjourn this House for an unlimited time i.e., till the members of the House who are under detention are present here. I am sorry that I cannot help Mr. Goni in this behalf because the adjournment motion submitted by him does not fulfil the requirements of section 26 of the Rules of Business and Procedure of the Constituent Assembly.

Mr. Abdul Gani Goni : Sir, I and my sympathisers would walk out under protest.

☛ **Note:-** The following Hon'ble members staged a walk out:-

1. Mr. Abdul Gani Goni.
2. Mr. Ghulam Mohi-ud-Din Hamdani.
3. Kh. Noor-ud-Din Dar.
4. Mr. Ghulam Ahmed (Poonch).
5. Mr. Ghulam Rasool Kar.
6. Mr. Ghulam Mohammad Mir (Salar); and
7. Mr. Ghulam Nabi Wani (Badgami).

Mr. President : Hon'ble Bakshi Ghulam Moh'd.

Bakshi Ghulam Moh'd : Sir, I move:- "this Assembly resolves that the Basic Principles Committee as appointed by the Assembly by its resolution dated: 7th November, 1951, be reconstituted with the following panel of members in place of the existing personnel of the Committee: :-

1. Bakshi Ghulam Moh'd.
2. Pt. G.L. Dogra.
3. Pt.S.L.Saraf.
4. Mr. Mir Qasim.
5. Mr.D.P.Dhar.
6. Mr. Ghulam Rasool Renzu.
7. Mr. Bhagat Ram Sharma.
8. S.Harbans Singh Azad.
9. Major Piar Singh.
10. Mr. G.M.Hamdani.
11. Mr. Moti Ram Baigra.
12. Smt. Ram Devi
13. Mr. Ram Piara Saraf.
14. Mr. Abdul Gani Goni
15. Mr. Asad Ullah Mir.
16. Sheikh Moh'd. Akbar.
17. Mian Nizam-ud-Din.
18. Kh. Abdul Gani Trali.
19. Raja Moh'd Afzal Khan; and
20. Mr. Ghulam Mohi-ud-Din Khan.

Mr. Mir Qasim will function as the Secretary of the Committee.

Mr. President : There is a proposal made by Mr. Nahar Singh that the names of Bhagat Chhaju Ram and Mr. Ram Rakha Mal be included in this Committee.

Bakshi Ghulam Moh'd : Sir, the Hon'ble member has suggested two more names for this Committee. There are already 20 members Committee, therefore,

I am sorry to say that only the name of Bhagat Chajju Ram can be included in it.
I accept the inclusion of the name of Bhagat Chajju Ram in this Committee.

Mr. Nahar Singh : I do not press for the inclusion of the other name.

Mr. President : Now the question is that this Assembly resolves that the Fundamental Rights Committee as appointed by the Assembly by its resolution dated 7th November, 1951, be reconstituted with the following panel of members in place of the existing personnel of that Committee:-

1. Bakshi Ghulam Moh'd.
2. Pt.G.L.Dogra.
3. Pt.Sham Lal Saraf.
4. Mr. Mir Qasim.
5. Mr. D.P.Dhar.
6. Mr. Ghulam Rasool Renzu.
7. Mr. Bhagat Ram Sharma.
8. S.Harbans Singh Azad.
9. Major Piar Singh.
10. Mr. G.M.Hamdani.
11. Mr.Moti Ram Baigra.
12. Smt.Ram Devi.
13. Mr. Ram Piara Saraf.
14. Mr. Abdul Gani Goni.
15. Mr. Asad Ullah Mir
16. Sheikh Moh'd Akbar.
17. Mian Nizam-ud-Din.
18. Kh. Abdul Gani Trali.
19. Raja Moh'd Afzal Khan.
20. Mr. Ghulam Mohi-ud-Din Khan; and
21. Bhagat Chhaju Ram.

Mr. Mir Qasim will function as the Secretary of the Committee.

(The motion was adopted).

Mr. President : Mr. Mir Qasim;

Mr. Mir Qasim : Sir, I beg to move:-

“ The Assembly resolves that the advisory Committee regarding Fundamental Rights and Citizenship as appointed by the Assembly by its Resolution dated: 7th November, 1951, be reconstituted with the following panel of members in place of the existing personal of that Committee” :-

1. Mr. Mir Qasim.
2. Mr. Ghulam Rasool Renzu.
3. Mr. Chuni Lal Kotwal.
4. Mr. Abdul Ghani Goni
5. Mr. G.M.Hamdani
6. Mrs. Maini.
7. Sardar Kulbir Singh.
8. Mr. Mansukh Rai.
9. Mr. Kushak Bakula.
10. Master Ghulam Ahmad; and
11. Mr. Moh'd Ayub Khan.

Pt. Sham Lal Saraf : I second it.

* **Mr.Moti Ram Baigra** : I want to put forth an amendment that the names of two more members viz. Mr. Assad Ullah Mir and Mr. Ghulam Qadir Massala be included in this Committee.

* **Sardar Harbans Singh Azad** : Sir, I second it.

Mr. Mir Qasim : I accept the amendment.

***D.P.Dhar**: Sir I want to propose the names of two more members i.e. Mr. Abdul Khaliq Butt and Munshi Jamal-Din Dar. They should also be included in the Committee.

***Mr. Mir Qasim**: Sir, I accept it.

***Mr. President**: Now the question is that this Assembly resolves that the Advisory Committee regarding Fundamental Rights and Citizenship as appointed by the Assembly by its resolution dated 7th November, 1951, be reconstituted

with the following panel of members in place of the existing personnel of that Committee:-

1. Mr. Mir Qasim
2. Mr. Ghulam Rasool Renzu
3. Mr. Chuni Lal Kotwal.
4. Mr. Abdul Ghani Goni.
5. Mr. G.M.Hamdani.
6. Shri Isher Devi, Maini.
7. Sardar Kulbir Singh.
8. Mr. Munsukh Rai.
9. Mr. Kushak Bakula.
10. Master Ghulam Ahmad.
11. Mr. Moh'd Ayub Khan.
12. Mr. Assad Ullah Mir.
13. Mr. Ghulam Qadir Mahala.
14. Mr. Abdul Khaliq Butt; and
15. Munshi Jamal Din.

Mr. Ghulam Rasool Renzu will function as the Secretary of the Committee.

☛ (The motion was adopted).

Mr. President : Pt. S.L.Saraf !

Pt S.L.SAraf : Sir, I beg to move :-

"This Assembly resolves :-

(1) That a Steering Committee be appointed for the duration of the Assembly which shall consist of :-

(a) the President of the Constituent Assembly, who shall be its ex-officio member of the Committee shall be its en-officio Chairman; and

(b) four other members named below :-

1. Mr. Mir Qasim.
2. Mr. D.P.Dhar.

3. Mr.Ghulam Rasol Renzu; and

4. Mr. Chuni Lal Kotwal.

(2) That the functions of the Committee shall be :-

(a) to arrange the Order of Business for the day ;

(b) group similar motions and amendments and secure, if possible, assent of the members concerned to composite motions and amendments;

(c) to act as a general liaison body between the President and any party of the Assembly; and

(d) to deal with any other matter under the rules or referred to it by the assembly or the President.

(3) The Joint Secretary, Constituent Assembly, will function ex-officio Secretary of the Committee.

(4) This resolution supersedes the previous resolution date 5th November, 1951, of the Constituent Assembly on the subject:

***Mr. Mir Qasim** : Sir, I second it.

Mr. President : Mr. Chuni Lal Kotwal has submitted an amendment that the word “ Committee Barai Tashkil-i-kar” be substituted by words “ Rahbar Committee” in the Urdu translation of this motion.

*** Mr. S.L.Saraf** : I accept it.

***Mr.Abdul Gani Trali** : Sir, the name of Mr. Moh'd Anwar Shah Masoodi be also included in this Committee.

***Mr.S.L.Saraf** : I accept it.

***Mr. President** : Now the question is “ this Assembly resolve that a Steering Committee be appointed for the duration of the Assembly which shall consist of :-

(a) the President of the Constituent Assembly, who shall be an ex-officio member of the Committee and shall be its ex-officio Chairman; and

(b) five other members named below:-

1. Mr. Mir. Qasim.

2. Mr. D.P.Dhar.
3. Mr.Ghulam Rasool Renzu.
4. Mr. Chuni Lal Kotwal; and
5. M.Mohammad Anwar Shah Masoodi.

(2) That the functions of the Committee shall be :-

- (a) to arrange the Order of Business for the day;
- (b) group similar motions and amendments and secure, if possible, assent of the members concerned to composite motions and amendments;
- (c) to act as a general liaison body between the President and any party of the Assembly; and
- (d) to deal with any other matter under the rules or referred to it by the Assembly or the President.

(3) The Joint Secretary, Constituent Assembly, will function as ex officio Secretary of the Committee.

(4) This resolution supersedes the previous resolution dated 5th November, 1951, of the Constituent Assembly on the subject”.

☛ (The motion was adopted).

Mr.D.P.Dhar : Sir, I beg to move :-

“This Assembly resolves that the Drafting Committee as appointed by the Constituent Assembly by its resolution dated 10th June, 1952 be reconstituted with the following panel of members in place of the existing personnel of that Committee:-

1. Mr.G.L.Dogra
2. Mr. Mir Qasim.
3. Mr. D.P.Dhar.
4. Mr. Ghulam Rasool Renzu; and
5. Sardar Harbans Singh Azad.

Mr. Mir Qasim will function as the Secretary of the Committee”.

* **Pt. S.L.Saraf** : Sir, I second the motion.

***Sheikh Moh'd Akbar** : Sir, I suggest that the name of Mr. Ghulam Nabi Wani Lolabi be included in the Committee.

*** Mr.Ram Lal** : Sir, I propose that the name of Mr.Assad Ullah Mir be included in the Committee.

*** Mr. Moh'd Ayub Khan** : Sir, I second it.

*** Mr. D.P Dhar** : Sir, I accept the proposed names of Mr. Ghulam Nabi Wani Lolabi and Mr. Assad Ullah Mir.

***Mr. President:** Now the question is :-

“ This Assembly resolves that the Drafting Committee as appointed by the Constituent Assembly by its resolution dated 10th June, 1952, be reconstituted with the following panel of members in place of the existing personnel of that Committee:-

1. Mr.G.L.Dogra
2. Mr. Mir Qasim.
3. Mr.D.P.Dhar.
4. Mr.Ghulam Rasool Renzu.
5. Sardar Harbans Singh Azad.
6. Kh.Ghulam Nabi Wani Lolabi; and
7. Mr. Assad Ullah Mir.

Mr. Mir Qasim will function as the Secretary of the Committee”.

☛ (The motion was adopted).

***Mr. President** : Hon'ble Girdhari Lal Dogra.

Mr. Girdhari Lal Dogra : Sir, I beg to move:-

“ This Assembly resolves that the revision of salary scheme of Gazetted and Non-Gazetted officers of the State sanctioned under Cabinet Order No. 118-C of 1953 dated 20th September, 1953, together with all subsequent orders and instructions issued in this behalf as detailed in the annexure be made applicable to the Gazetted and Non-Gazetted staff of the Constituent Assembly with effect from 1st of Bhadun, 2010. the special grade of Rs. 100-10-200 existing in the Constituent Assembly Secretariat not coming under the purview of the aforesaid Cabinet Order be enhanced to Rs. 120-8-200”.

“Further resolved that the existing staff of the Assembly Secretariat be considered as permanent and confirmed for the purposes of the revision and that disputes if any, in fixing pay and allowing increments be decided by the President whose decision will be final”.

Annexure: - 1. Cabinet Order No.1188-C of 1953 with Audit instructions.

2. Establishment list.

3. Subsequent Government Order and correction slip of Accountant General.

Sir, the object of this resolution is that recently the pay scale of Gazetted and Non-Gazetted employees of the Government were revised and Cabinet sanction was also accorded to it but that order does not apply to the Gazetted and Non-Gazetted employees of the Constituent Assembly because this House alone is competent to sanction the revision of their grade. This House is competent to issue such an order which can grant all those privileges to the employees of the Assembly Secretariat which other employees of the Government have got. Therefore, it was considered necessary to bring forward this question in the form of a resolution in the House.

The new point is that the special grade of Rs. 100-10-200 existing in the Constituent Assembly Secretariat not coming under the purview of the aforesaid Cabinet Order has been enhanced to Rs. 120-8-200 which comes within the purview of revised grades of the Government. It makes no marked difference but the yearly increment of rupees ten becomes rupees eight. This will make the grade of these posts equal to the post in the Government departments.

Besides, the existing staff of the Assembly Secretariat is a temporary one. This resolution also seeks to make it permanent and confirmed. If there is any dispute regarding the fixation of pay of the Government employees it is being decided by the Accountant General or by a Cabinet Order, but if any dispute arises regarding the fixation of pay of the employees of the Assembly Secretariat it will as recommended by the Finance Committee be decided by the President whose decision shall be final. With these words, I move the resolution.

***Pt. S.L.Saraf:** Sir, I second the resolution.

***Mr. President :** Now the question is:- “ the revision of salary scheme of Gazetted and Non-Gazetted officers of the State sanctioned under Cabinet Order No.118-C of 1953 dated 20th September, 1953, together with all subsequent orders and instructions issued in this behalf as detailed in the annexures be made applicable to the Gazetted and Non-Gazetted staff of the Constituent Assembly with effect from 1st of Bhadun, 2010. the special grade of Rs. 100-10-200 existing in the Constituent Assembly Secretariat not coming under the purview of the aforesaid Cabinet Order be enhanced to Rs. 120-8-200.

“Further resolved that the existing staff of the Assembly Secretariat be considered as permanent and confirmed for the purpose of the revision and that disputes, if any, in fixing of pay and allowing increments be decided by the President whose decision will be final”.

Annexure:-

1. Cabinet Order No.1183-C of 1953, with Audit instructions.
2. Establishment list.
3. Subsequent Government Order and correction slip of the Accountant General.

☛ (The motion was adopted).

***Mr. President :** Now the business of this short session ends and I want the permission of the House to adjourn it sine die. I think, House permits me to do so.

Note :- The House assented and adjourned sine die.

ANNEXURE A.

Cabinet Order No. 1188-C of 1953, dated 26-9-1953 audit instruction, (published in Government Gazette, Dated 16-6-2010/1-10-1953).

ANNEXURE B

ANNEXURE TO THE RESOLUTION PASSED BY THE FINANCE COMMITTEE
ON
15-10-1953

<u>S.No.</u>	<u>Designation</u>	<u>Present Grade</u>	<u>Revised Grade</u>
1.	Secretary J&K Constituent Session Judge's grade of	Drawing Rs.700/- as personal pay in the 500-40-700	Assembly (400-25-600). (500-25-600-40-800)
2.	Joint Secretary, J&K Constituent	Drawing Rs. 450 in (400-25-600)	(400-25-500-40-700)
3.	Under Secretary.	(200-20-300)	(200-20-300-25-400)
4.	P.A to the Hon'ble President	(200-20-300)	(200-20-300-25-400)
5.	Watch & Ward Officer.	(150-10-250)	(150-15-300)
6.	Marshall	(150-10-250)	(150-15-300)

<u>S.No.</u>	<u>Designation</u>	<u>Present Grade</u>	<u>Revised Grade</u>
1.	2 Assistant for the Constitution Branches	(150-10-250)	150-15-300
2.	1 Chief Reporter	(150-10-250)	150-15-300
3.	1 Senior Translator	(150-10-250)	150-15-300
4.	1 Legislative Assistant	(150-10-250)	150-15-300
5.	3.Reporters	100-10-200	120-8-200
6.	3 Reporters	90-6-150	100-7-135-8-175
7.	2 Translators	100-10-200	120-8-200
8.	3 Translators	90-6-150	100-7-135-8-175
9.	2 Head Assistant	90-6-150	100-7-135-8-175

10. 1 Accountant	90-6-150	100-7-135-8-175
11. 2 Stenographers	90-6-150	100-7-135-8-175
12. 1 Reporter-cum-Translators (Ladakhi)	90-6-150	100-7-135-8-175
13. 1 Stenographer for Joint Secretary	75-5-100	70-6-130
14. 1 Cashier	75-5-100	70-6-130
15. Librarian	90-6-150	100-7-135-8-175
16. 1 Assistant Librarian	75-5-100	70-6-130
17. 7 Senior Assistants	50-5-100	70-6-130
18. 1 Watch and Ward Assistant	50-5-100	70-6-130
19. 3 Junior Assistants	40-4-80	60-04-100
20. 1 Katib	40-4-80	60-04-100
21. 1 Press Mechanic	40-4-80	60-04-100
22. 2 Drivers	75-5-100	70-6-130
23. 1 Daftri	30-2-50	50-4-80
24. 1 Jamadar	16-1/3-19	30-1-35+Rs.12 R.A
25. 4 Ward and Ward Men	12-1/3-15	25-1-30+ Rs12 R.A
26. 4 Messenger Boys	12-1/3-15	25-1-30+ Rs12 R.A
27. 12 Orderlies	12-1/3-15	25-1-30+ Rs12 R.A

Subsequent Government Order and Correction Slip of the Accountant General published in Government Gazette (Extraordinary), dated 16-06-2010/1-10-1953.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

February, 1954 Session

Wednesday, the 3rd February, 1954/22nd Magh, 2010

The Constituent Assembly met in the Assembly Chamber, Grey Hall, Jammu, at eleven of the O' clock.

Mr. President (Hon'ble G.M.Sadiq) in the chair:

Mr. President: Mr. Mir Qasim.

Mr. Mir Qasim : Sir, I beg to present the report of the Basis Principles Committee.

(Read out the following Report).

REPORT OF THE BASIC PRINCIPLES COMMITTEE

The Basis Principles of the State Constitution will contain provisions relating to the form of the State, the Executive, the Legislature, the Judiciary, the Public Service Commission, the Official Language and other ancillary matters. The recommendations of the Committee in regard to these matters are contained below:-

The State of Jammu and Kashmir will comprise such territories which formed part of the State on 15th August, 1947. While retaining its autonomous character, the State will continue to remain acceded with the Union of India.

The sovereignty of the State resides in the people thereof and shall except in regard to matters specifically entrusted to the Union be exercised on their behalf by the various organs of the State.

The governing features of the State Constituent would be based on democracy, equality and social economic justice. The guiding principle of the State policy would be to ensure the rebuilding of the State by harnessing all its resources for the purpose of securing a better and prosperous life for its people. In order to achieve that end, the entire economic activity of the State will be conducted in accordance with plans envisaged in New Kashmir.

In order to satisfy the urge of the people of the State for an intimate association with administration at all level, the Constitution shall embody suitable provisions to that effect. Suitable provision shall also be made enabling the people to develop their various cultures, languages and scripts and to promote closer association and better understanding amongst themselves.

Based on the decision of the Constituent Assembly for the termination of the Hereditary Ruler-ship in the State, the Head of the State will be a person designated as the Sadar-i-Riyasat whose election and other terms of office will be regulated in accordance with the resolution of the Constituent Assembly dated 21st August, 1952.

The Superintendence, direction and control of the Government will vest in a council of Ministers headed by the Prime Minister who will be appointed by the Sadar-i-Riyasat. The Prime Minister will be the person who enjoys the confidence of the State Legislative Assembly. The Council of Ministers will be collectively responsible to the State Legislative Assembly.

The State Legislative Assembly will be composed of members chosen by direct election who will represent constituencies determined by Law. The determination of constituencies will be on population basis and on the scale of

one member for every 40,000 of the population. Election to the State Legislative Assembly shall be on the basis of adult suffrage that is to say, every male or female who has attained the age of 18 years and is not otherwise disqualified under the constitution or any Law made by the State Legislative Assembly on grounds of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall have the right to vote. The State Legislative Assembly will have powers to make laws for the State in respect of all matters falling within the sphere of its residuary sovereignty. Its life will be five years provision for the rights, powers and privileges of the members and the Committees of the Assembly should be made on the lines of the corresponding provisions of the constitution of India, The Superintendence, direction and control of all elections of the State Legislative Assembly including the appointment of Election Tribunals will vest in a Commission to be appointed by the Sadar-i-Riyasat. Provision will also have to be made for a fixed period to promote with special care the interests of the weaker sections of the people by ensuring their representation in the Assembly.

The Judiciary of the State will be independent of executive. The High Court of Judicature shall consist of the Chief Justice and two or more other judges as the Sadar-i-Riyasat may from time to time appoint. In order to ensure the independent and impartial character of the High Court, a judge of the High Court will not be removed from his office except by an order of Sadar-i-Riyasat passed after an address by the National Assembly supported by a majority of the total membership of the National Assembly and by a majority of not less than two thirds of the members of the House, present and voting has been presented to the Sadar-i-Riyasat in the same session for such removal on the ground of proved misbehaviour or incapacity. Provisions will also have to be made for the terms and conditions of service of High Court Judges commensurate with the independence and dignity of the High Court.

The High Court will be a Court of Record and shall have all the powers of such Court including the powers to punish for contempt of itself. The High Court shall have the same powers and jurisdiction as are exercised by it at present

under the Constitution or any other law in force in the State. Provisions in this respect will be modelled on those contained in the existing Constitution of the State and the relevant parts of the Constitution of India. Adequate provisions shall also be made in the Constitution for ensuring independence and integrity of the subordinate Courts.

An appeal shall lie to the Supreme Court of India from a Judgement, decree or final order of the High Court in Civil proceedings if the High Court certifies that the amount or value of the subject matter of the dispute in the Court of first instance and still in dispute on appeal was and is not less than 20,000 rupees or that the case is fit one for appeal to the Supreme Court. Similarly an appeal shall lie to the Supreme Court of India in criminal matters if the High Court has on appeal reversed an order of acquittal of an accused person and sentenced him to death or has withdrawn for trial before itself any case from any subordinate court and has in such trial convicted the accused person and sentenced him to death and lastly if the High Court certifies that the case is a fit one for appeal to the Supreme Court. An appeal shall also lie to the Supreme Court of India in certain civil, criminal or other proceedings if the High Court certifies that he involves a substantial question of law as to the interpretation to the provisions of the Constitution of India, which apply to the States under Article 370 of the Constitution. The original jurisdiction of the Supreme Court will extend to disputes between the Centre and States or States **inter se** as specified in Article 131 of the Constitution of India.

Provisions with regard to the establishment of a Public Service Commission should be made in the Constitution. The appointment of its Chairman and members will be made by the Sadar-i-Riyasat. It will function independent of executive. Its Chairman and other members will be removable from office in the manner provided for the removal of a High Court Judge.

The Official Language of the State will be Urdu, but English language may be used for all official purposes for which it is being used at present. The Constitution should also recognise the regional languages of the various cultural units of the State.

Further provisions relating to the transitional and ancillary matters should be incorporated in the Constitution. Necessary provisions should also be incorporated in the Constitution ensuring that an amendment of the Constitution shall be made only by two thirds majority of the total membership of the Assembly.

The State of Jammu and Kashmir having acceded to the union of India, it becomes necessary to define the relationship of the State with Centre. This relationship was originally based on the Instrument of Accession whereby the State of Jammu and Kashmir acceded to the Union of India in matters of Defence, Foreign Affairs and Communication. When the dominion of India became a republic, the relationship of the State with the Union was embodied in Article 370 of the Union Constitution. The State's accession to the Union entails certain responsibilities on the Centre for protecting the interests of the State and also for its social and economic development. In order to enable the Centre to discharge its responsibilities, which devolve upon it under the Constitution, those provisions of the Constitution of India, which may be necessary for this purpose, should be made applicable to the State in an appropriate manner. While preserving the internal autonomy of the State all the obligations, which flow from the fact of accession and also its elaborations as contained in the Delhi Agreement should find an appropriate place in the Constitution. The Committee is of the opinion that it is high time that finality in this respect should be reached and the relationship of the State with the Union should be expressed in clear and precise terms. The Committee accordingly recommends: -

- (i) that a directive be issued to the Drafting Committee to bring up appropriate proposals defining the sphere of Union jurisdiction in the State suggesting additions, modifications and amendments wherever necessary in the Constitution (Application to Jammu and Kashmir) order, 1950 to suit requirements of the State;
- (ii) that the Drafting Committee should forthwith take up the drafting of the Constitution for the State in the light of the recommendations

contained in this report and such other reports as have been or are adopted by this Assembly from time to time.

Mr. President: Mr. Mir Qasim:

Mr. Mir Qasim: Sir, I beg to.....

Mr. President : Is the Hon'ble member going to present the report relating to Citizenship and Fundamental Rights ?

Mr. Mir Qasim : Yes Sir, I beg to present the report relating to Citizenship and Fundamental Right ?

(Read out the following Report)

Report Relating to Citizenship and Fundamental Rights

The Advisory Committee on Fundamental Rights and Citizenship was set up by the resolution of the Constituent Assembly dated 7th November, 1951, in order to make recommendations as regards qualifications required for Citizenship and the determination of Fundamental Rights of the residents of the State. The Committee was reconstituted by the Constituent Assembly by its resolution dated the 20th October, 1953.

The State having acceded to the Union of India, every State Subject and every person having his domicile in the State is a Citizen of India under the provisions of the Constitution of India. It is however, recognized by the Government of India that this position would not affect the existing State Subject definition. While the Committee adheres to principle underlying this definition, it feels that the definition should be liberalized in keeping with the changed times. The Committee therefore recommends that all the three classes of State Subjects provided in the definition be removed and a uniform class of permanent residents be established. Accordingly every person residing in the State who is a State Subject of Class I or Class II or who after having acquired immovable property in the State has been ordinarily residing there for a period of not less than ten years prior to the date of enforcement of this provision shall be permanent resident of the State.

The power of the State Legislative to define 'Permanent residents of the State' in future in any manner it deems fit and to regulate the special rights and privileges of the Permanent Residents of the State should be preserved. A majority of not less than two-thirds of the total membership of the House shall be necessary for the exercise of this power. The Committee is of the opinion that while adequate provisions to that effect should be incorporated at an appropriate place in the Constitution of India, the provisions of Part II of the Constitution of India relating to Citizenship should be made applicable to the State and care should be taken to protect the especial position accorded to the State Subjects to be now know as "Permanent residents of the State" and their special rights and privileges. Necessary modification shall also have to be provided in that Part to enable those Subjects of the State who had migrated to Pakistan in 1947 in connection with the disturbances or in fear of the same to return to the State under a permit for resettlement of permanent return issued under the authority of law that would be made by the State Legislature in due course.

The Committee is of the view that the State Legislature should also be competent to make provisions with respect to acquisition and determination of the status of permanent residents of the State and until the State Legislature enacts provisions in that behalf, the existing I Jazatnama Rules should continue to remain in force and the existing procedure for obtaining a State Subject Certificate should apply for the purpose of securing a certificate as to the status of a permanent resident.

Fundamental Rights

An examination of the Fundamental Rights embodied in the Constitution of some of the more important countries of the world would reveal that while there are certain rights which require positive action by the State and which can be granted only so far as such action is practicable, there are others which require that the State shall abstain from prejudicial action. It is obvious that the rights of the first type are not normally either capable of or suitable for enforcement by legal action, while those of the second type may be so enforced. Both classes of

rights are mentioned together under the head 'Fundamental Rights' in certain Constitutions but in certain other distinction between two forms of rights is clearly recognized. A similar distinction is recognized in Dr. Lauterpacht's "International bill of Rights of Man" 1945. The Committee having carefully considered the matter is of the view that it would be useful to separate the two classes of rights; firstly those rights; which shall be guaranteed by enjoining upon the State to take specified and planned action in the field of social and economic reconstruction of the State. This set of rights shall retain fundamental position in the governance of the State.

The question of evolving Fundamental Rights has been considered and discussed at length by the Committee. It has been recognized by the Government of India that the Fundamental Rights as contained in Part II of the Constitution of India, should not come in the way of Land Reforms already introduced by the State or the reforms that might be undertaken by the State in future. This was particularly necessary in view of the fact that the State has not provided for any compensation for the land expropriated under its Land Reforms. The Government of India has also recognised that the special rights and privileges enjoyed by the Permanent Residents of the State relating to acquisition and holding of immovable property and in respect of employment under the State shall be fully safeguarded.

The Committee having taken note of the Fundamental Rights provided in various constitutions including the Constitution of India recommends the following rights for adoption by the State:

1. Equality of all citizens, irrespective of religion, race, caste, sex, place of birth or any of the, all spheres-economic, political, cultural and social-should be guaranteed; that is to say every citizen should have the right to EQUALITY before law and there should be no discrimination against any citizen on grounds only of religion, race, sex, or place of birth and no citizens should be subject to any disability, liability, restriction or condition with regard to-

- (a) access to shops, public restaurants, hotels, and places of public entertainment; or
- (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

2. The Committee strongly feels that women must attain their just and rightful place in society and their co-operation in the mighty and responsible task of nation building must be secured. Similarly all children born in the State should be ensured equality of opportunity irrespective of accidents of birth and parentage. In order to achieve that end the State should be able to make any special provisions it deems fit for women and children.

3. Untouchability is abolished and its practice in any forms shall be forbidden.

4. In conformity with interests of the people, all citizens shall have right to FREEDOM of speech and expression to assemble peaceably and without arms, to form associations or unions, to move freely through out the territory of State, to reside and settle in any part of the territory of the State, to acquire, hold and dispose of property subject to the law of the State and to practice any profession, or to carry on any occupation, trade or business.

The State should, however, have powers to impose such restrictions as are considered reasonable by the State Legislature on the exercise of these rights in the interests of general public, security of the State, public order communal harmony, decency or morality, or in relation to contempt of court, defamation, or incitement to an offence, or for the protection of the special rights and privileges of the permanent residents of the State.

5. Protection in respect of conviction for offences, and of life and personal liberty shall also be afforded. The provisions and procedure pertaining to preventive detention should follow on the lines of the corresponding provisions in the Fundamental Rights of India.

6. All citizens shall have RIGHT AGAINST EXPLOITATION i.e., traffic in human beings and forced labour, employment of children in factories etc. shall be prohibited.

7. FREEDOM OF RELIGION shall be guaranteed i.e. all citizens shall have the freedom of conscience and shall be free to profess, practise and propagate any religion and to manage their respective religious affairs.

8. CULTURAL AND EDUCATIONAL RIGHTS should also be guaranteed by the Constitution. The interests of the minorities should be protected and any section of citizens having a distinct language, script or culture should have the right to conserve the same.

9. RIGHT TO PROPERTY shall be guaranteed, and no person shall be deprived of his property to save by authority of law. This should not, however, in any way affect the existing laws relating to land reforms nor should it prevent the State Legislative to make any further land reforms. Accordingly no law, made by the State Legislature, providing for the acquisition by the State of any land or of any rights therein for the extinguishment or modification or any such rights shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the aforesaid rights. The existing definition of land shall be preserved.

10. Similarly all these Fundamental Rights should be subject to the over-riding condition that :-

- (i) no law of the State relating to State Subjects to be here after called “ Permanent Residents” and regulating their right and privileges; and
- (ii) no law hereafter to be made by the State Legislature defining the permanent residents and conferring on them special rights and privileges in relation to acquisition and holding of property in the State or in matter of employment under the State and imposing restrictions on citizens other than permanent residents for settling within the State should become void on the ground that it is

inconsistent with or takes away or abridges any of the rights conferred by Part III of Constitution of India.

11. The Committee feels that a declaration of Fundamental Rights would be more effective if suitable judicial remedies for the enforcement of these rights are provided and therefore it is proposed that the citizens shall have the rights to Constitutional Remedies. In order to ensure the fullest protection in regard to enjoyment of these rights the citizens shall be allowed to seek redress from the highest court i.e. the Supreme Court of India.

In order to avoid any possibility of conflict of the Fundamental Rights proposed above and those contained in Part III of the Constitution of India the Committee feels that the former rights in so far as they vary in certain respects the provisions of the Fundamental Rights of the Union should be reflected in Part III of the Constitution of India. The Government of India has already agreed to provide appropriate modifications or exceptions in Part III of the Constitution of India to suit the requirements of the State.

As indicated above there should be separate set of principles which would be fundamental in the governance of the State and shall be intended for the guidance of the State. The Committee recognises that in a democratic State every person must be provided with equal opportunities and adequate minimum of civilised standard of life. To realize that ideal, however, the State must take resort to economic planning with a view to achieve all sided advance, in a country on a wide scale. Similar by other rights, for instance, the right to rest, the right to material security etc. can be ensured only when a stage of industrial development and economic prosperity, as envisaged in "New Kashmir", is achieved. The Committee, therefore, proposes that the principles of policies set forth below should not end.

I. The State shall within the limits of its economic capacity and development make effective provision for securing the right to work that is, the right to receive guaranteed work with payment for their labour in accordance with its quantity and quality subject to a basic minimum and maximum wages established by law.

II. The State shall endeavour to secure, by suitable legislation, economic organisation and in other way, to all workers industrial or otherwise, better conditions of work ensuring a decent standard of life, full enjoyment of leisure and cultural opportunities.

III. The State shall make provision for securing just and humane conditions of work and for maternity relief for workers.

IV. All permanent residents of the State shall have the right to material security in old age as well as in the event of sickness and loss of capacity to work.

This right shall be ensured by the wide development of social insurance of workers and employees at the expense of the State, free medical aid for workers and the provision of wide network of health resorts for the use of working men and women.

V. The State shall, in particular, direct its policy towards securing-

- (i) that the permanent residents of the State, men and women equally, have the right to an adequate means of livelihood;
- (ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (iii) that the operation of free competition shall not be allowed to result in the concentration of the ownership and control of essential commodities in few individuals to the common detriment;
- (iv) that the strength and health of workers, men and women, and the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter vocations unsuited to their age and strength; and
- (v) that childhood and youth are protected against moral and material abandonment.

VI. Every permanent resident shall be entitled to free education, and it shall be the duty of the State to provide free education which shall be compulsory for all children up to the primary standard.

VII. The State shall promote with special care the educational and economic interests of the socially and educationally backward sections of the people, and shall protect them from social injustice and all forms of exploitations.

VIII. The State shall foster and encourage the growth and development of State and regional languages, especially those which are more backward, by every possible means including the following:-

- (i) the establishment of a State languages Academy; where scholars and grammarians shall work to develop these languages by-
 - (a) perfecting and providing their scripts;
 - (b) enriching them through foreign translations;
 - (c) studying their history;
 - (d) compiling dictionaries and textbooks;
- (ii) founding of State scholarships for the study of these languages.
- (iii) fostering of local press and publications in local languages; and
- (iv) establishment of an Institute of Arts and Culture.

IX. It shall be the obligations of the State to protect every monument or place or object of artistic or historic interest declared by the law of the State to be of national importance, from spoliation, destruction, removal, disposal or export as the case may be, and to preserve and maintain according to the law of the State all such monuments or places or objects.

In the light of the foregoing the Committee recommends that:-

- (i) The Drafting Committee, set up by this House be directed to propose appropriate modifications or exceptions in Part II and Part III of the Constitution of India in their application to the State of Jammu and Kashmir, in the light of the recommendations contained in this report; and

- (ii) that the Drafting Committee should, while preparing the Draft Constitution of the State incorporate their in the rights and principals indicated above.

Mr.Abdul Gani Goni: Sir, I rise on a point of order. My note of dissent to the report presented before the House.....

Mr.President : I think the Hon'ble member is a bit too hasty. The report has merely been presented while the other motion has been moved.

Mr.Abdul Gani Goni: No Sir, I want to invite.....

Mr.President : It is only after the second motion that any Hon'ble Member can raise any objection.

Mr.Abdul Gani Goni: No Sir, I want to invite your kind attention to Article 60 Sub-section (2) of the Rules of Business and Procedure. The report presented by the Chairman of the Basic Principles Committee in the House does not include my note of dissent I think the report is incomplete without that.

Mr.President : I would like to inquire from the Hon'ble Member whether he has any objection to the report presented before the House.

Mr.Abdul Gani Goni: Yes, Sir.

Mr.President : You oppose the motion.

Mr.Abdul Gani Goni: yes Sir, I submit that the report as presented by Mr. Mir Qasim does not include my note of dissent. With your permission Sir, I would like to submit the same before the House.

Mr. Assadullah Mir : I think, Sir, there are two motions before the House. One is to present the report before the House. When this is complete, any member can raise a point of order or say anything regarding the report. At the present stage it is not proper to raise a point of order because a motion for presentation only has been moved. When this is done and the consideration motion comes, objection may be raised as provided under the Rules of Business and Procedure.

Mr.Abdul Gani Goni: Sir, I would submit that if the Hon'ble Member will carefully read Article 60 sub-section (2), he will definitely find that the report is incomplete

without my dissenting note. Under Article 60 sub-section (2) he had to include my note of dissent with his report but he has made no mention of my note of dissent.

Mr.D.P.Dhar: Point of Order Sir, The position is quite simple as far as I understand. There are obviously two stages with regard to the presentation of the report. One is that when the report is presented to the House and the other is when the mover requests for consideration of the same. Obviously Mr. Abdul Gani Goni is right in stating that his note of dissent should have formed part of the report. In other words the minutes presented alongwith the report. Then the motion for consideration shall succeed the motion of presentation. The second namely the consideration motion should include a discussion on the note of dissent.

Mr. Mir Qasim : I beg to submit Sir, that Mr. Abdul Gani Goni has no doubt sent a note of dissent. Technically speaking the report has not been signed by him while it was signed by all other members of the Committee. Therefore, it cannot be appended to the report. That is my submission.

Mr.President : I think it will solve the difficulties of the House if the Note of dissent of the Hon'ble Member is also presented.

Mr.D.P.Dhar : The note of the dissent should form part of the report and should be moved by the mover himself.

Mr.President : Yes.

Mr.Mir Qasim : Sir one of the members Mr. Abdul Gani Goni has sent a note of dissent to this report which I present to this House.

**The Chairman,
Basic Principles Committee,
Jammu.**

Sir,

I submit my note of dissent to the report relating to Basic Principles Committee:-

(1) I suggest that the right of secession should be provided. For this purpose the following sentence should be added at the end of the third paragraph of the report:-

“The State shall retain the right to secede from this Union of India.”

(2) I object to the application of the jurisdiction of the Supreme Court of India over the State, and suggest that the judicial Board of the State should function as the highest court of the State, as was proposed by the former Committee.

(3) Right of recall should be provided.

In view of the importance of these matters I desire that of all my points of dissent should be placed before the House alongwith the report.

Yours faithfully,

(Sd.)

A.G.GONI,

Dated : Jammu,
the 1st February, 1954.

MEMBER,
Basic Principles Committee,

To

Mr. President : Mr. Mir Qasim

Mr. Mir Qasim : Sir, I beg to move that the report of the Basic Principles Committee be taken into consideration.

Mr.S.L.Saraf : I second the motion.

***Mr.Abdul Gani Goni**: Sir, I rise on a point of order, Rule 63 of the Rules of Procedure of the Constituent Assembly says, "Provided that any Member of the Assembly may object to its begin so taken in to consideration if a copy of he report has not been made available for the use of Members for three days and such objections shall prevail".

Sir, the importance of the report submitted for consideration demands that the notice thereof should have been given to the Hon'ble Members at least three days earlier. But on the other hand the copies of the report have been distributed among the members only a few minutes before its presentation. I submit that we should get at least three days to study the report carefully and thereafter we can take the report into consideration. It is very essential to study the report minutely.

***Sardar Harbans Singh Azad** : I am sorry that the Hon'ble Member has omitted to quote the important portion of the rule 63 sub-section (2) which reads :-

"Unless the Chairman in his discretion allows the Report to be taken into consideration".

The Hon'ble Member has very shrewdly left out this portion as it goes against him. In my opinion, the Chairman can, in his discretion waive off this limitation of three days and allow the report to be taken into consideration. Therefore, the objection raised by the Hon'ble Member is irrelevant.

***Mr.Abdul Gani Goni**: Sir, my respectable friend, who happens to be a Law Graduate, must know that the discretion to be exercised by the Hon'ble President must be a judicial one. It is not an ordinary report. It involves a question of the life and death for our country. We are going to build our future. Yours should be a judicial discretion, Sir, so that the Hon'ble Members must get sufficient time to study the report.

***Sardar Harbans Singh Azad** : I agree and would request that the House be adjourned till tomorrow to give time to the Hon'ble members to study the report.

***Mr.Abdul Gani Goni:** I thank you Sir, you have at least agreed to get the House adjourned till tomorrow.

Mr. President : The question is that the Articles under which the Hon'ble member has raised this objection is not applicable to the present stage. This Article applies when a bill to amend the Constitution of the State is introduced. The Hon'ble Member should have raised any objection he liked after the Hon'ble Mover had moved his consideration motion. Mr. Mir. Qasim will now proceed.

Mr. Mir Qasim : Sir, I would like to draw the attention of Hon'ble Members to the broad principles laid down, in the report of the Basic Principles Committee. The broad principles proposed to be incorporated in the Draft Constitution of the State, have been evolved after great deliberation and it is in the light of these every broad principles that suitable provision relating to other matters will be made. While reading the contents of this report I have already invited the attention of the Hon'ble Members to the Principle which has guided the members of Basic Principles Committee in the operation of this report. These basic Principles are that the Constitution of the State would be based on democracy, Equality, Social and Economic justice. I am convicted that no democratic Constitution of the Word has ignored this golden principle.

Surely our Constitution will be framed on principles of democracy, secularism and economic and social equality.

By "State" which word occurs so often in this report, we mean those territories which formed part of our State on and prior to 15th August, 1947. It clearly means that the Constitution with we are going to frame for the State of Jammu and Kashmir does not lave out any part of our territories are at present know by some other names, this Assembly, which alone is authorized to frame a Constitution for the State is in no way prepared to ignore this basic fact and principle that the State of Jammu and Kashmir includes those territories which formed its parts on or prior to the 15th August, 1947. Forcible occupation of any part of our State by some aggressor is not valid in Law.

The provisions relating to the Legislature and Executive and the Judiciary which would include only such maters as have been entrusted to Indian Union

and its Parliament will have to be defined and specified. In other matters which may be specified by us the State will exercise its jurisdiction through its own Legislative, executive and judicial organs. The people of the State are adopting a principle aimed at bringing about mutual concord and harmony and one this principle has been accepted no tendencies likely to disturb this harmony and impair the integrity of the State will be tolerated.

Our next decision relates to the adoption of a specific language with a specific script which would go a long way to maintain the unity and integrity of the State which shall be preserved at all costs.

The principles adopted by us confer equal rights on all citizens and no discrimination whatsoever will be permitted on grounds of religion, race, caste, sex, or birth.

The boundaries of the State will be those which existed prior to 15th August, 1947.

The House is already ware of our decision that the Head of the state will be person designated as the Sadar-i-Riyasat who will be declared BY THE LEGISLATIVE ASSEMBLY. There shall be a Council of Ministers to administer the affairs of the State and our Prime Minister will be person enjoying the support of the majority in Legislative Assembly of the State. The principles concerning the elections to the Legislative assembly will provide for one member to be elected for every 40,000 of the population and every male or female who has attained the age of 18 years shall have the right to vote. Besides, everybody will have a right of appeal to the Supreme Court. We have also promised to establish a Public Service Commission. Although Urdu is to be the official language of the Stat, yet the report recommends that the Constitution should also make provisions for the development of the various regional languages of the State.

The State having acceded to India, it is inevitable that the sphere of relationship between our State and the Indian Union be broad-based. In order to achieve this end it is recommended that the Delhi Agreement be implemented.

Sir, I have enumerated all the principles recommended in these reports and move that “the report of the Basic Principles Committee be taken into consideration”.

Saradar Harbans Singh Azad: Sir, in view of the importance for the report, I move that.....

***Mr. President :** The two very important reports which will form the foundation of the future Constitution of the Country have already been presented to the House. In this connection a number of members have also approached me individually and have expressed there desire that they do not want the Reports to be discussed today. Paying due regard to their wishes I deem it proper to postpone the discussion till we meet again at 11 AM tomorrow. If the House has no objection I, declare the House adjourned till 11 A.M tomorrow. May I presume that the House permits me to adjourn this sitting ?

Voices :- “Aye”.

***Mr. President :** Today’s business is over and we shall meet again here at 11 A.M tomorrow.

☛ **Note:- The House adjourned till the 4th February, 1954.**

JAMMU AND KASHMIR CONSTITUTENT ASSEMBLY

FEBRURARY, 1954 SESSION

Thursday, 4th February, 1954/the 23rd Magh, 2010

The Constituent Assembly met in the Assembly Chamber, Grey Hall, Jammu, at eleven of the O'clock

Mr. President (Kh.G.M.Sadiq) in the Chair.

Mr. D.P.Dhar : Point of order Sir !

Sir, I beg to draw your attention to the orders of the day for today. I this list of business, it is suggested that the discussion on the Report on the Basic Principles Committee should proceed I the first instance and after the discussion on this Report concludes the second report will be considered.

***Mr.Moti Ram Baigra** : Mr. President, I would request the Hon'ble member to speak in Urdu.

Mr. D.P.Dhar: Sir, as far as the point of order is concerned; there is nothing in it, which Mr. Baigra need know.

I submit that the two Reports even through different and differently named are theoretically integrated and it is rather

Note:- The star mark indicates that the Speech was delivered in Urdu and English Translation thereof has been incorporated in the debates.

Difficult to draw a line, during the course of discussion, between the first and the second report. I therefore, submit that both these reports be taken into consideration simultaneously. This is a matter within you direction. Now you can exercise your discretion, Sir.

***Mr. President** : *I think that the point of order raised by the Hon'ble member does not pose any legal problem of big magnitude. On the contrary it aims at simplifying the issue. The different issues and points contained in the two reports submitted before the House yesterday are to a considerable extent interconnected. I am, therefore, of the opinion that if this House ha no objection these reports may be discussed simultaneously. Our work will become easy and*

it will also not create any legal flaw. I think that no Hon'ble member has any objections, if both the reports are discussed simultaneously.

Voices : *There is no objection.*

***Mr. President:-** Mr. Mir Qasim will submit his second report for consideration.

Mr. Mir Qasim : Sir, I beg to move that the report of the advisory Committee on fundamental Rights and Citizenship be taken into consideration.

* Sir, while presenting the report to the House yesterday I read it out and mentioned all the fundamental rights that have been enunciated in it. Now whereas it is essential to draw the attention of House towards it, it is also necessary to throw some light on some of its salient features.

Sir, the fundamental principles enunciated in the "New Kashmir" programmed have been accepted in the Report. It has been made obligatory for the existing Government and the Governments that are set-up in future, to always keep in view the programme of "New Kashmir" for ameliorating the lot of the people. The Report provides that the residents of different provinces of this State shall have equal rights and that no discrimination shall be permitted. Besides, while framing the fundamental rights we adopted and included in our Report all that was good in different Constitutions and the Constitution of India. With these submissions, I beg to move that the report be taken into consideration.

***Mr. Sham Lal Saraf :** I second the motion moved by Mr. Mir Qasim.

***Sardar Harbans Singh Azad :** Sir, we shall frame our constitution on the basis of the two reports submitted before the House Yesterday by Hon'ble Mir Qasim. We will also run the administration of our country on the lines of the constitution thus framed. So far as these report are concerned it becomes imperative on us to banish poverty and back ward ness from imperative on us to banish poverty and backwardness from our country and enable our people to enjoy freedom. Ample light has been thrown in these reports on all the points, which can form the basis of a democratic constitution. Recommendations have been made therein to the

effect that the people must enjoy equal rights and that they should have cultural as well as economic freedom. Besides, protection has been extended for the development of regional languages and scripts. As is obvious these points have been provide with a view to enable the people of our various units to develop their respective cultures. Besides, provision has also been made in these reports to safeguard the rights of the minorities and the backward classes and to bring them in line with the other advanced sections of our population. All these things can be achieved by mutual co-operation and by displaying courage and determination whereby alone can our country can our country register and progress.

It has also been provided in the Report of the Fundamental Rights Committee that the Government should run the economic life of our country in such a way as to provide work to all the citizens of our State give free education t our children, improve the lot of our women folk and do away with all types of exploitation prevalent in our country. It can be seen that the promises we had make to the people of Kashmir have been fulfilled. This House consists of the members of only one party i.e. the National Conference. We have chalked out a programme for ourselves, which is laid down in the booklet known as "New Kashmir". It is essential that we fulfil the promise we have made in it .The important point which has been provided in this report is that while preserving of our relation with the Indian Union. If you go through the pages of these report you will find that the Delhi Agreement has been implemented and the work undertaken by this house for the last so many years has been completed. As is obvious it is essential to give a final and permanent shape to the Indo Kashmir relations .Because if we fail to do so a state of uncertainty will prevail here, resulting in a loss to our country and affording opportunity to our enemies to indulge in intrigues, so it was necessary t9 do way with the state of uncertainty, Mention need be made of the fact that it has been recommended in the Report that no legal action be taken against the land transferred to the tillers according to the provisions of the Big Landed Estates Abolition. Act. Besides it

has been left to the House to enact or frame any law with regard to the Land Reforms.

In order to safeguard the economic interests of permanent residents of this State, it has been recommended that special privilege be provided in respect of services etc. The Indian Constitution provides that the Provincial Government may give special concessions to the backward classes. It has also been provided in the Report of the Advisory Committee on Fundamental Rights and Citizenship that the citizen of India. We can frame such laws as will enable us to develop the far-flung and backward areas of our State.

It has also been recommended in the Report to liberalize the State Subjects Law, with a view to protect the rights of the permanent residents of the State. So far as the right only because poor people and that inhabit our state the rights of poor agriculturists had to be protected. The establishment of a Public Services Commission will be a welcome step as it will foster efficiency in our services and no one will be in a position to grumble that his interests were marred or that he was ignored by one. One of the main features of this report is that it provides opportunities for the development of all the peoples of this State, irrespective of their religion nationality. Mention need be made that these points were also enumerated in the Policy Statement of 1951. The recommendation made in the Basic Principles committee Report with regard to the establishment of a National Academy and the protection of regional languages and sprits are commendable. There are certain backward classes in our state. It has been recommended in the Report to reserve seats for them, But it has not been done on religious basis. Seats are to be reserved for the backward classes of our State irrespective of their religion. Besides Sikhs, Harijans, Bakarwals and Gujjars are also among backward classes so that they are adequately represented in this House, I am of the opinion that when these backward sections of our state will march hand in hand with the other comparatively advanced sections of our State, it will naturally strengthen the secular character of our country, The jurisdiction of the Supreme Court will be applicable only to such of the subjects with regard to which we have acceded to the Indian Union,

Care has been taken to protect the rights of our citizens and the validity of the Land Reforms, The acceptance of jurisdiction of the Supreme Court will inevitably strengthen our Judiciary.

***Mr .Moti Ram Baigra:-** Mr. President ,many Hon'ble members have to speak on this report. It is, therefore, essential that a time limit be fixed for every speaker, so that everybody may get a chance to speak.

S. Harbans Singh Azad :- Hon'ble member should not lose patience. I was pointing out that by accepting the Jurisdiction of the Supreme Court the judiciary of the State will be benefited considerably,. The most important points these Reports contain in that the Indo- Kashmir relations have been reiterated in unambiguous terms. Certain directives occur in one of the Reports. Which are known as Directive Principles? I will submit that a constitution of a country is unless, if it does not help the people to end exploitation from the country. If the constitution of a country does not aim at the ending of unemployment and poverty of its people. I will venture to say that such a constitution is unless. Against this background I am happy to point out that these reports have recommended the running of the administration of the State in such manner where every citizen will get work to do, The special recommendations for children and women are really commendable. I hope when the Drafting Committee will give our constitution a final shape, if we see that the aspirations of our people are fulfilled. With these words, I congratulate the Drafting Committee and hope that it will take steps to cement the Indo-Kashmir relations and frame an ideal constitution for the country.

***Mr.Abdul Gani Goni :-** Mr. President before I express my views on the reports , I would like to thank my leader Hon'ble Bakhshi Ghulam Moh'd for providing me with an opportunity to express my opinion before the house.

***Bakhashi Ghulam Moh'd :-** It is your right.

***Mr. Abdul Gani Goni :** Considering the extravagant way, section 3 is used here. I would not have had the opportunity to express my views before the

House, had it been used in my case as well. Moreover, I would like to submit, Sir, that being the custodians of people's interests we should voice their feelings.

So far as the facts are concerned after the August revolution of 1953, a session of this House was held at Srinagar. I have before me a copy of its proceedings, which bears the title "Unanimous vote of confidence in Bakhshi Government". My photo as well as my speech is given on page No. 27 of this Report. But the critical remarks I had made remarked that the responsibility for the recent change in Kashmir lies on the shoulders of the communalist parties of India.

In this connection. Dr. Khare speaking at Nagpur on the 6th of August 1953 had suggested the dismissal or arrest of Sheri-I-Kashmir Sheikh Mohd. Abdullah. A conspiracy on these very lines was hatched there resulting in the dismissal and arrest of our beloved leader. This portion of my speech has been omitted from the report. I had also disagreed with the constitutional points raised by my friend Mr. Mir Qasim in his speech. I had pointed out that I was in disagreement with the constitutional aspect of the disagreement with the constitutional aspect of the discussion, but since the House had expressed its agreement with it. I had but to agree. This portion of the speech has also been omitted. As I have already submitted that we being the representatives of the people, our speeches should be preserved, but looking at the Pamphlet "Unanimous' vote of confidence" I find that the Information and Broadcasting Department has not lived upto its reputation while compiling this report. Partially the responsibility of this omission also lies on the shoulders of the Assembly Secretariat. It is quite possible that the I&B Department might have wrongly informed by the Secretariat. it goes without saying that the I&B Department has not done justice to my speech.

***Mr. President :** The Pamphlet referred to by the Hon'ble member is not in reality the report of the Assembly proceedings, but a Pamphlet issued by the Publicity Department. Since Hon'ble member has referred to the Assembly Secretariat there is a room for misunderstanding, that his speech had not been recorded in

the Assembly proceedings. This is not true. The proceedings of the session have not as yet been published.

***Mr. Abdul Gani Goni :** Thank you Sir, I hope that my full speech will be published in the Assembly proceedings. We are the representatives of our country and are discussion its future. I will therefore, submit that the Reporters be inducted to note down our speeches correctly.

***Mr. Abdul Kahliq Butt :** Sir, after an Hon'ble member makes his speech to the Reporters submit the speech, to the Hon'ble member for approval and his signature. Has not the Hon'ble members signed his speech which he delivered during the last session ?

Mr. Abdul Gani Goni : Would that the speech is placed before me, so that I could show it to the rest of the Hon'ble members. However the reports of the Basic Principles Committee and that of the Advisory Committee on fundamental rights which have been circulated in the House and which have also appeared in the Press do not contain my note of dissent. I think that without this note of dissent the reports are incomplete.

Voices:- We have got its copies.

***Mr. Abdul Gani Goni :** But on this side of the House no such copies have been furnished.

Mr. Assadullah Mir : Perhaps the Hon'ble member has kept his copy in his pocket.

Mr Mir Qasim : His note of dissent has been read out in this House which means that it is before the House.

***Mr. Moti Ram Baigra :** I want to ask the Chairman of the Basic Principles Committee, whether the Hon'ble member had signed his note of dissent when he submitted it to the committee and whether he was present there ?

***Mr. Abdul Gani Goni :** These are legal points which Mr. Baigra cannot understand.

***Mr Mir Qasim :** The Hon'ble member had not signed his note of dissent, so it was not essential to discuss it. However it was read out in the House.

***Mr. Abdul Gani Goni :** The objection of Mr. Mir Qasim and Mr. Baigra with regard to my signatures does not arise, because the Hon'ble President has given his ruling in my favour yesterday. Now coming to the original point, I am of the opinion that the constitution of a country is the index of its economic set up and its development. Constitution is the basis of all laws of a country. A political party was formed in our country in the year 1931. Besides others, Bakshi Sahib, Sadiq Sahib and Saraf Sahib were its leaders. In course of time this organisation gathered momentum, and to mobilize the vast sections of our State's population for ending poverty and establishment a better life, it placed before the country a programme, which is embodied in "New Kashmir. It asked the people to join the organization by the thousand so that when power could be wrested from autocracy, the programme could be put into practice. Hundreds of people of all creeds, nationalities and classes sacrificed their lives for the achievement of this programme. Naturally these people i.e. the people who sacrificed their everything for this objective are watching the proceeding of the house. They are eagerly watching whether the promises made to them are being fulfilled. The Hon'ble member who spoke before me said that these reports were based on New Kashmir. But if an impartial judge is asked to give his opinion on this point. I am sure he will have no hesitation in saying that such a statement is incorrect. It is stated in the first article of New Kashmir "the equality of the rights of all citizens, irrespective of their nationality, religion, race or birth in all spheres of national life-economic, political, cultural and social shall be an irrevocable law".

According to the "New Kashmir" programme our State will not only be an ideal State and an independent State but socialist State as well. It will be based on socialistic lines. I would like to ask the question. Is our Constitution being framed on such lines? Now have a look at article 7 of "New Kashmir". It reads "the defence of the motherland is the Supreme and sacred duty of all citizens".

***Mr. President :** I would like to draw the attention of the Hon'ble member to his Note of Dissent. It contains certain points, which means that he is in complete agreement with the rest of the Reporter. I hope, the Hon'ble member will

therefore, confine himself to such points alone which he has raised in his Note of Dissent.

***Mr. Abdul Gani Goni :** The Reports presented in the House not only are against the principles of New Kashmir but they also smack of Indian Imperialist mentality. We are handing over everything to the Indian Union.

The first page of the Report of the Basic Principles Committee contains the following provision:- “the State of Jammu and Kashmir will comprise such territories which formed part of the State of 15th August, 1947”. We should feel happy on this score that mention has been made of that area of the State also in the report, which constitutes one third of our State’s territory, but is not at present under our control. We represent the eight-lakh population of this area. Sir, in the year 1939, when you were the President of the Muslim Conference, while delivering the Presidential Address you had remarked “it is an established fact that the responsible government to be established in the State will not represent any class, community or religion but on the contrary, it will be a Government of the forty lakh people of the State. Every individual will be an equal partner in the State and will contribute his share in the running of the administration”.

***Voices :** You are repeating old events.

***Mr. Abdul Gani Goni :** Sir, my speech is being interrupted.

***Mr. Ghulam Moh’d. Bakshi:-** Sir, I would request the Hon’ble members not to make any interruption. The Hon’ble member should have his say. The Hon’ble members who want to comment upon his speech can do so at a later date.

***Mr. Abdul Kahliq Butt:-** If the Hon’ble members start to repeat the events of the last fifteen years, we will have to sit here for the whole day.

***Mr. Ghulam Moh’d. Bakshi :** If you are here only to nod your heads in assent and dissent, you are at liberty to do so. I will resume my seat.

Sir, what I mean by discussing the port is that we take the State as a whole and include in it that territory as well which is at present known as Azad

Kashmir area. We claim to represent the eight lakh population of this area. Besides, we are also deciding the issue of accession as well. I am not against accession to India. There should be no misunderstanding on this score. I have no objection to the accession of our State to India, but I want to emphasize is that when these eight lakh people will get an opportunity of again joining us and the territory comes under our control at that time, we must get an opportunity to think over the matter again. This is a genuine right and should be conceded to us. When we declare that we represent the forty lakh people of the State, we should have no hesitation to accept this right. I would like to draw the attention of the House to the speech made by the Sheikh Sahib on 1st of September 1952. He said "we are conscious of the fact that the representatives of the people residing on the other side of the ceasefire line are not present in this House. We will welcome their participation in deliberations of the Assembly, so that their opinions are helpful in solving our problems. We are convinced that their opinions will help up to solve the problems. These are to be solved by this Assembly. The present uncertainty is proving a stumbling block in the path of the economic process of our country. This state of affairs cannot last long and the time has come when every right thinking man should try to get the people of the occupied territory to send their representatives to this Assembly. The doors of the Assembly are always open to them. Their participation in the deliberations of the Assembly will have the way for peaceful solution which will restore the unity of State".

Sir, it goes without saying that as this Assembly represents this area also, the people of that place should get an opportunity to think on this issue. It is, therefore, I have submitted that we should be granted the right of secession. It is, because there are two alternatives before us i.e. we have an option of joining either India or Pakistan. If there had been no country to choose other than India. I would never have demanded such a right. Now I will come to the speech delivered by Bakshi Sahib on 9th of August, 1953,. I have not received a copy of it I heard it on the Radio. He has stated in his speech that the Banihal Pass will remain open throughout the year. You know that Banihal Pass will remain open

throughout the year. You know that Banihal Pass remains closed for months together during winter. This is because that Pass is situated at such an altitude where it is impossible to keep it open for the whole year round. We have to see whether the Government can do anything in this behalf. Let us see if the Government can fulfil their promise. It is against this background. I have submitted that after two or three years time we should be again given a chance to think over the subject. On the one side is the Rawalpindi road, which remains open during the whole year, which unfortunately has closed for us, and on the other side, is a big mountain which is being boarded at places so that a road could be constructed which would remain open for the whole year. What we have to see is whether we can remove this mountain from its places and whether the idea is practicable. It is, therefore, I have requested that we should be given the option of thinking over the matter again two or three years time.

I am relating facts as they are. So far as rights and opportunities for development are concerned, prima-facie these are provided in India irrespective of caste, creed and religion, but looking at it deeply; we find an altogether different picture. Let us take the example of Foreign Service, defence and communication. Here the proportion of non-Muslims in services is infinitely greater than Muslims.

In the year 2004, at the time of tribal invasion our unarmed people defended the country with such bravery as became the envy of the whole world. Bakshi Sahib rallied them by the thousand for this sacred task. When the National Militia was formed, some people were appointed as Captains, some as Lieutenants, some as Jamadars and so on and so forth; but when this very militia was taken over by the Government of India, these officers instead of being promoted were demoted to lower ranks.

Similar is the case with the Post Offices. We do not find any difference there. If you have opportunity of going to Delhi or Amritsar, you will find that its posts are predominantly manned by non-Muslim. Within two or three years time the concession we enjoy at present will also be reduced to naught. It is

therefore, that I demand that the right of secession should be provided in our Constitution.

Sir, we all know something about the Praja Parishad. This organization launched a movement in Jammu and attached the people of this Province. Dozens of people sacrificed their lives for it and many were killed by bullets. You cannot ignore this movement and the position of the organization. Similarly, there is an organization in Kashmir known as Kashmir Political Conference. It launched a movement in Kashmir and at present, its leaders are behind the bars. This Organization enjoys the support on overwhelming majority of Kashmiri population. Besides, we cannot forget the events which occurred there after the arrest of Sheikh Mohd. .Abdullah. The people did not shed their blood for establishing permanent accession to India or for a change in the Government; they did it only to get their right of self-determination recognized they did it because our beloved leader was thrown behind the bars. I demand the right of self-determination for the protection of our leader.

Sir, today when we are deciding the issue of accession and opting for India, we should see whether the Praja Parishad is with us whether the Kashmir Political Conference also supports our decision and finally whether the backward people of Ladakh and Kargil also agree with us. I do not find in this House, the representative of Kargil. We should see whether all these people support our decision of accession to India. I fear lest these people start any movement against this decision of ours.

There is one more reason for my demanding the right of secession, when all the parties will be represented in this House. We must get an opportunity to discuss this right. If we find that our interests are not safe, we must be allowed to secede. It is because men like Pandit Prem Nath Dogra hold different views about this accession business. As reported in the press, he is of the opinion that the question of accession was proving to be a Damocles sword as far as our state was concerned and that the state of uncertainty caused thereby has disrupted our economic life. He further is of the opinion that the Supreme Court

should have full jurisdiction over the State and has raised the slogan of "one flag" one President and one Constitution.

Mr.Moti Ram Baigra :- Do you represent Pandit Prem Nath Dogra ?

Mr.Abdul Gani Goni:- No I do not; I am only relating facts as they are. those people who are here, as the monopolists of National Conference should not forget these facts. They should not also forget their real position whether they are the true representatives of the people.

Mr.Moti.Ram Baigra: -You should yourself know whether you represent the people of Bhaderwah or not ?

Mr Mohd Ayub khan: - Sir, the Hon'ble member is using unparliamentary language.

Mr.Abdul Gani Goni:- Sir, when any two parties enter into a contract their presence on the spot is necessary. Is this decision of accession of ours acceptable to India? Are the parties in a position to enter into a contract? For such a purpose, it is necessary to execute Section 54 of Transfer of properties Act.

Now I will discuss the speech delivered by the Head of the Indian Delegation late Sir, B.N Rau on 12th march 1951 in the Security Council. He said. "I will now discuss the problem which has become a source of anxiety for some of the members of the Security Council. It relates to the convening of a Constituent Assembly for Kashmir. As I have already stated. Kashmir is at present a part of Indian Federation. Its Government therefore should be based accordingly. When we were framing a constitution for India. We had to consider the problem as to what provision should be made for constitution making business of different units of Indian federation. After deliberations, it was decided that the Constituent Assembly of the concerned unit should frame its own constitutions. According to this decision some units for example Saurashtra, Travancore-Cochin and Mysore established their own Constituent Assemblies. Some states lagged behind in this respect and Kashmir is one of them, where a constituent Assembly has not as yet been convened. In consequence of the constitution of this state has not been framed so far there. Hon'ble members

should keep this point in view that the convening of a Constituent Assembly was not only proposed for Kashmir alone but for some other units of India Federation as well. It is beyond any doubt that Constituent Assemblies are recognized the world over as the machineries for Constitution making. Accordingly, a provision has been made in the Indian constitution also for Kashmir to decide the details of its own constitution. Will this Assembly give its decision on the question of accession as well? In this connection my Government is of the opinion that if this Assembly so wishes it can express its opinion with regard to this problem but not give its decision”

This is the statement made by the Head of India Delegation late Sir B.N Rau. Similarly he also made one more statement before the Security Council on 29th March, 1951. The statement reads as under: -

“It leads me to the subject of the Constituent Assembly which has caused anxiety to some of the members. I have already explained the point of view of my Government on this subject. In a federation, every state has a right to frame its own constitution and establish an origination for this purpose. Let us take the example of America, where the existing constitution of the all states has been framed in the same way. Similarly, India cannot deny Kashmir the exercising of this right; as it is part of Indian Federation, because this right has been recognized in unambiguous terms in the Indian Constitution. Some of the members of the Security Council fear least the Constituent Assembly of Kashmir may give its opinion on the accession question. If the constituent Assembly of Kashmir wishes to give its opinion on this subject, it can do so, but this opinion of the Assembly can neither be a binding on the Government of India nor can it influence the position of the Security Council. As the representative of the Government of India, I have stated this previously as well. I cannot but express regret that inspite of that statements this point is dragged into discussion”

This is the statement given by late Shri B.N.Rau in the Security Council on 29th March, 1951. Sir, what does this statement prove? It proves that while we are going ahead by one step, the Government of India does not keep pace with us. I think if we do not provide right of secession in our constitution we are thereby

showing disrespect towards it. Besides, Pakistan is also a party of the dispute. Our eight-lakh people are living in “Azad Kashmir” Therefore the problem does not pertain to Kashmir alone. On the contrary, it pertains to India, Pakistan and Security Council also. I will therefore submit that while taking this into consideration the Hon’ble members will not be led away by their sentiments but I hope they will boldly and honestly take some concrete steps.

I would like to draw the attention of the House to Art.201 Chapter X Of Burmese Constitution. Burma consists of many States. Each of its Constituent States enjoys the right of secession. Accordingly, it is provided in the Article 201 of this constitution.

“Save as otherwise expressly provided in this constitution or in any Act of Parliament made under section 199, every state shall have the right to secede from the union in accordance with the Constitutions herein after prescribed”.

While asking for the reorganization of this, I am in no way influenced by sentiments. In the contrary being the citizen I only want to protect my rights. If we tread on a wrong path, It is our right to again follow the correct trek. As this right has been provided in the Burmese Constitution, it should similarly be proved in our Constitution as well.

***Mr. President:-** Your time is over.

***Mr. Abdul Gani Goni:-** With your permission I want only five minutes more.

Sir, I will now come to the question of the Supreme Court, the aim of my note of dissent is to make our judiciary independent. According to the Article 32 and 139 of the Indian Constitution, The Supreme court of India can be granted many more powers. As a lawyer, I respect the Supreme Court as much as any citizen of India respects it. The decisions of Our High Court and Lower Courts are never against the decisions of the Supreme Court. The whole of our Judiciary respects it. Accordingly, to Article 136 of the Indian Constitution the Supreme Court can exercise special powers with regard to all matters. On the one hand we say that our judiciary enjoys protection, but when I look to Article 129 of the Constitution. I find that

the Supreme Court has been granted wide powers. According to Article 122, the transfer of the High Court Judges also come under the powers of the President, which means that our Judges of the High Court can be transferred by him. I am of the Opinion that our Judiciary is more independent and wielded more powers in the times of Maharaja Hari Singh than it does now. Even the executive powers of High court have been snatched away. Today the High Court cannot make a Munsif permanent or transfer him from one place to another. If a judge makes any remarks, a whisper campaign is started against him and the Chief Justice i.e. Wazir Sahib is compelled to suspend him.

Mr. Girdhari Lal Dogra:- he is casting aspersions on the dignity of the High Court and the Chief Justice. I protest against it. He must withdraw his remarks.

Mr. Abdul Gani Goni:- If it is a question of dignity, I withdraw these words, but I want that the High Court must have wide powers. A constitution is going to be framed, it is high time that (H) 101 which is promulgated as an Ordinance from 28th August, 1943 should be removed and the judiciary made independent.

Sir, now I come to the Right of Recall. I want that the forty thousand voters who elect one amongst them to safeguard their future should have the right to recall him if the particular member fails to discharge his duties honestly. In this way no member can play with the destinies of people for years together. I think we should consider it as our duty to sacrifice our personal interests to the interest of the nation.

Sir, with these words I would request to include my note of dissent with the Report. I would also like to request the Hon'ble members to read the report and the note of dissent with cool heads. Some of the Hon'ble members have yet to speak and I am sure that my speech will be commented upon. I, therefore, hope that the Hon'ble President will again give me an opportunity to answer the

points which will be raised by them. With these words after expressing thanks to you Sir, I conclude my speech.

Mr. Krishan Dev Sethi :- Mr. President, I think that the political aspect of the reports of the Basic Principles Committee and the Advisory Committee on Fundamental rights are in accordance with the programme of "New Kashmir" i.e., the future constitutional setup of our Country will be as such has been envisaged in the aforesaid programme. The biggest achievement of the House lies in the fact that our right of self determination has been recognized. It need hardly be stated here that the National Conference has fought all along for the recognition of this right. What does the recognition of this right means? It means that the people of the State should be in a position to decide all the issues, be it of Legislative or economic nature. This right should not be exercised by any particular class or an individual, but by the people as a whole. The reports aim at transferring the political power to the people as a whole. For this very objective the people of the State have been fighting for the last three hundred years and today we can claim it with pride that we are today exercising our right of self-determination. We are according to India with out any external pressure and after giving the problem our matured thought (cheers), such a decision of ours is a rebuff from exercising this right, and turn our country into a hot-bed of intrigue.

Mr. Goni has repeatedly referred to the programme of new Kashmir. He said that according to the programme, we will ourselves man the external affairs communication and defense of our country. It is true we have to put it into practice according to the objective situation existing in our country. Let us cite the example of Art. 27 of the "New Kashmir". It is therein that responsible Govt. will be set up in our State under the aegis of the Maharaja. Does this mean that Mr. Goni wants one individual to rule the country because such is provided in the "New Kashmir" my learned friend Should know that

the programme is to be implemented in accordance with the objective reality existing in our country.

Mr.Goni has demanded the right of secession in his note of dissent. In this connection I would like to submit that he has been a member of the Working Committee of the National Conference, A member of its General Council and therefore should know it better than other, what the National Conference has repeatedly declared for accession of our state to India, but at no time or at stage did he demand the right of secession. Besides, Sheikh Mohd.Abdullah as the leader of the House has declared in his policy statement for accession of Kashmir to India. His policy statement was supported by all the members of the House. Mr.Goni who is deviating from the decision and not the leadership of the National Conference.

Mr.Goni has indulged in self contradictory statements. On the one hand he says, he is not against accession to India, but in the same breath he advances such argument as would lead us to believe that our state should either remain independent or accede to Pakistan. He says that the Banihal Pass remains closed and it cannot be made to remain open for the whole year round. He punctuates this opinion of his with the remarks that he stands for accession of our state to India. Why these contradictory statements? If the people would have been for Pakistan, Mr.Goni would have openly demanded it. But at present over whelming majority of our people are for India. It is because of the pressure of the public opinion that even Mr.Goni has been compelled to support the accession to India. Not only are the people of Poonch, Jammu and Kashmir alone for accession to India, but even the people of 'Azad Kashmir' are also for accession to India. If you only knew that there are people like Mr.Akram Khan who are rotting in jails? The Pakistanis are dominating the administration of Azad Kashmir. Naturally, the people of this area do not want to accede to Pakistan. I want to inform the House that as far

as the situation of this area is concerned. I am the best informed man, and without fear contradiction I can say that the people there are not for Pakistan. Perhaps Mr.Goni is not aware of the fact that the people of that area are subjected to hundred and one type of tyranny. Even their honour and respect are being trampled upon. It is therefore that the people of that area are not for accession to Pakistan. We are receiving reports from there to the effect that voices are being raised for accession to India. We are advising them to struggle in order to throw out the present ruling clique of Pakistan and then join us and become the citizens of India. When I am making such a statement. You will take it from me that I am voicing their sentiments.

Mr. Goni says that we should remain independent. The decision he wants to take has been rejected in the year 1947. He is well aware of the defects as are inherent in such a decision. It was because of it that he rejected the idea of independence at that time. Sheikh Sahib also want the same way as is suggested to us by Mr.Goni but he should know that we have rejected it after giving much thought to it.

The Idea of an independent Kashmir is fraught with grave dangers. The people are well aware of the intrigues that are being hatched against our country. If the theory of independent Kashmir is accepted it will lead to the annihilation of Hindus of East Pakistan and Muslims of India. Similarly, it will also lead to the repetition of the events which occurred here in the year 2004. it is therefore that the National Conference is not ready to own this theory. Our accession will be to India and India alone.

Mr. Goni is doubtful whether the Government of India ratifies our accession or not. On hearing this statement of his, I feel really surprised. I think it is the result of his mental confusion. We are not only joining hands with the Government of India but with the toiling masses of India as well. If, God forbid, the Government of India

betrays us, which is not a probability, I am sure Mr. Goni that the people of India will force their Government to defend our freedom. Mr. Goni is not, I think aware of the sentiments of people of India in this respect. The people there want Kashmir to be part of India. If at some stage the Government of India yielding to the pressure from outside may try to back out from the stand it has taken so far with regard to our accession, our constitution will be a guarantee against such a danger. The democratic movements of India and Kashmir are so powerful today that they will never allow these relations to be broken. The people of India do not want to see Bombay getting separated from India. Similarly, they will not like Kashmir to be separated from India. If a new situation arises, where such a danger might be created. I am assuring Mr. Goni that the people and the Government of India will face such eventualities. It is therefore; we are acceding to India with the complete support of its people.

Sir, Mr Goni says that we are taking such steps as will lead to the merger of Kashmir with India. But I may tell him that it is not so. When we go through the reports and the principles underlying it, we find that we are definitely not going towards merger. The Government of India or its president cannot thrust anything on us. It is obvious from this report that apart from some subjects which we have ourselves handed over to India in other matters we have maintained our autonomy, Naturally I cannot understand how we are heading towards merger.

The National conference has waged an ideological struggle against both merger with and succession from India. These reports have repudiated the theory as advocated by Sheikh Sahib or Mr. Goni. It has also refuted the theory of merger.

Sir, the times demand that these reports be brought before the House so that our friends and foes could know our views with regard to secession and integration.

In these reports different types of freedoms and rights have been guaranteed. For example, freedom of speech and expression has been recognized. The National Conference is of the opinion that all these freedoms etc, should be channelized in one direction and so social system should be established as will provide work to the unemployed bread to the hungry and shelter to the needy. Every one should get medical aid and free education. We think that political freedom is incomplete without economic freedom, In this connection it is stated in the introduction of "New Kashmir".

"that freedom from all forms of economic exploitation is the only true guarantee of political democracy, and without it political freedom is a mere shibboleth. Even the winged ideals of "liberty, equality and fraternity" of the French Revolution bought it the price of the peoples blood, degenerated into the autocracy of Napoleon, because privilege and exploitation persisted in their old strongholds. Freedom and privilege are the two sides of a pair of scales as privilege gets lighter, freedom gets heavier."

"In our time, Soviet Russia has demonstrated before our eyes not merely theoretically but in her actual day life and development that real freedom takes birth only from economic emancipation".

Sir, this passage from the introduction of the New Kashmir " points out to us that the political freedom should be channelized in such a direction as to achieve economic freedom. Adequate attention has not been given to this aspect in the report of the Fundamental Rights Committee. Not only this, there has not even been any mention of setting up of a planning Commission in it, which could explore avenues for our economic development, so that we could provide work to the unemployed, given medical aid to the

needy and free-education to our people. I will request the members of the Drafting committee to frame such a constitution for our country as will give our people economic and political freedom in the least possible time, and will remove their difficulties so that we are in a position to Implement the programme of the New Kashmir. I hope that the people and the Government of India will continue to help us in future also to remove our economic difficulties. All efforts of our Government should be directed to strengthen our economic structure. Such an effort on the part of our Government will constitute a landmark in the history of our economic development. When this report will be framed with such an outlook. I can assure you that the mechanizations of such elements who wants to weaken our links with India will be blown sky high. Even Mr. Goni will loose the confidence of the people of Bhaderwah if they only know his views about this matter.

With these words, I support the reports.

*Mr. Ghulam Moh'd. Mir Rajpuuri : Sir, when I think over the views expressed by my learned friends Mr. Abdul Gani Goni with regard to the insertion of certain clause in the report, I come to the conclusion that there is something wrong somewhere with the thinking and reasoning of my friend. After all when we talk of right of secession it cannot be divorced from the objective reality existing in our State.

Today when we are discussing the issue of accession of our State to India. I find from the speech of Mr. Goni that he is not against the accession to India but says that we should be allowed to secede from India in future if a need for such a step may arise. He calls this by the name of right of secession. But when I heard his arguments, I found that he has either misunderstood the issue or confused it. He has not viewed the Right of Ratification and Right of Secession separately. I would like to say something on these points. So far as the right of secession is concerned my friend Mr. Goni says

that he is not against the accession of our State to India, but only wants to exercise this right in future if there be any such need. What does this mean? It means that we must be allowed to retrace in future the steps we are taking at this time. Here an important question arises. If we exercise this right what are the alternatives before us? There are only two alternatives left before us. We either join Pakistan or remain independent. So far as Pakistan is concerned, today after much deliberation, we rule out this possibility, What are the reasons therefore? The National Conference as a whole has thought over it and has come to the conclusion that in Pakistan the progressive elements movements are weak, and that at present it is being turned into an Imperialist war base; that there being no opportunities available for the development of our cherished plans, it cannot be a country to which we can accede to. So if we exercise this right in future we cannot accede to Pakistan. Under these circumstances the only alternative left before us will be remain independent. But here the question arises, whether we are able to guard our frontiers and maintain our sovereignty under existing international conditions. In 1947 while we enjoyed a type of independence, one of our neighbors launched an attack on us. Therefore, there is no guarantee for it. All of us belong to an organization, which has a programme and an ideal. As is obvious we cannot exercise this right of secession as to accede to Pakistan were all our cherished dreams will be reduced to dust. So if we exercise this right we cannot hang in air, we have either to accede to India or Pakistan. We should take the objective reality as it exists into consideration and then take a decision. We must rise above sentiments and slogans and take such a decision with regard to the future of our country as will afford us the opportunities to implement our programme and strengthen our democratic traditions and secularism. This can be achieved only in India and India alone.

If my friend Mr. Goni does not find anything but darkness around him and therefore wants secession from India, it is because his understanding of politics is defective. It seems he does not witness the growing democratic movement of India. Is it not a fact that these movements are fast gaining strength. The communal forces, which haunt him, are fast dying out in India. Does he not know that the people laid their lives to fight communalism? The greatest of the great sons of India laid down his life to fight the evil of communalism. Neither the National Conference nor myself will say that there are no disruptive forces in India who are opposed to our programme of New Kashmir. But the democratic and progressive forces are far stronger than these. We are also confident that ultimately it will be these forces, which will emerge victorious in India. In the near future the democratic movement of India will not only lend its support to the implementation of our programme but it will also be a guarantee for the preservation of the countries of South East Asia. Now here the question arises, if we know that we cannot secede from India and join any other country except at the cost of our future, then why should we think of secession from India. It is not a fact that by providing such a provision in our constitution we will only accentuate the already existing state of uncertainty in our country. It is because of this uncertainty that our lives have become paralytic. No works of constrictive or developmental nature are undertaken. Can we carry forward our programme industrial development by providing such a provision in our constitution? Will not the disruptive elements in India and the State take advantage of such a state of affairs?

Sir, as a citizen a member of the National Conference and a representative of the people. I think that the provisions of such a right will in no way be helpful our country, on the country, on the contrary it will prove extremely harmful for us.

With these submissions, Sir, I would like to appeal to the Hon'ble members of the House to reject this provision which is primarily based on

sentiment and which if accepted will spell doom on our country. I hope the Hon'ble members will like to link their fate with the toiling masses of India and forge an united front to achieve a prosperous and bright future for our country.

*Mr.Chuni Lal Kotwal: Sir, it is an occasion of great pleasure that the Reports of the Basic Principles Committee and the Fundamental Rights and Citizenship Committee are being discussed in this House; The Fundamental Rights of our people have been protected in these reports. For example, the status of permanent residents and the land reforms have been afforded protraction. By accepting the Principle of elected Head of the State the institution of autocracy has been done away with for all times to come and thereby a basis for sound democratic set up has been laid. the most important feature of the reports is that reference has been made with regard to the steps which are going to be taken to finalize our accession to India. In these critical times taking of such a step. I think is an important event, which will contribute to the establishment of lasting peace in the whole world.

Sir, the world these days are divided into two antagonistic blocks the communist and the non-communist blocks. To encircle the communist block the non-communist block wants to establish a network of military base in the whole of Asia. n this strategy of Imperialists, Kashmir occupies an important place. The resorted to different machinations with a view to win us over to their side, but failed to achieve their nefarious ends. Now they have roped in our enemies the Pakistan ruling clique into their fold. The freedom-lobbying people of Kashmir have understood the real meaning of freedom. They know that by freedom is meant the abolition of poverty and backwardness of our country. They fought and many amongst them laid down their lives for the achievement of this ideal. The Indian National Congress and its leadership always helped us in our struggle for freedom. On the contrarily the rulers of Pakistan always opposed us. When late Mr. Jinnah came to Kashmir, he tried his best to win the people of this place to

his side , but he failed to do so. Thereafter he got our land invaded by tribal people. Every body knows these facts. The world knows how we fought the raiders. We are passing through critical times. We can overcome this crises only if we are strengthen our relations with relations with India and acceded to it constitutionally and legally.

*Mr. President: The Session is now adjourned for lunch. We will again meet here at 2-30 p.m.

AFTER LUNCH

Mr. President:- **Mr. Chuni Lal Kotwal.**

Mr.Chuni Lal Kotwal : Sir, reports of the Fundamental Rights Committee and the Basic Principles Committee have been framed with a view to end the state of uncertainty prevailing in our country, The report of the Basic Principles Committee envisages framing of such a constitution as will help the development of our country. Sovereignty and independence should be interpreted correctly, because people can be misled by wrong interpretation.

The great thinkers of the world are striving to establish a world organization, in which all the countries will be represented. This organization will be a guarantee for the preservation of world peace. As is obvious this organization can prove effective only if all the countries of the

world surrender a part of their sovereignty. Against this background when we take into consideration the slogans raised by some friends by handing over such and such subject to the Union Government, we have surrendered our sovereignty. We cannot but dismiss this argument as childish. When we talk about sovereignty etc. it should not be talked in a cavalier manner. What we should do is always to fight for real freedom.

Sir, real sovereignty lies in raising the standard of living of the people and in removing their backwardness. Mr.Goni has appealed in the name of democracy for providing of the right of secession in our constitution. In this connection my learned friend Mr.Rajpuri has objectively analyzed this demand. If we exercise this right, there are only two alternatives before us i.e. either we remain independent or accede to Pakistan. We cannot remain independent as we are not in a position to guard our frontiers. We cannot accede to Pakistan as our ideology is quite different from theirs and we cannot develop our economy there. Naturally under these circumstances there is only one alternative that of acceding to India. The India we are acceding to it as big as was at the time of King Ashoka.Now when we demand the right of succession, we should at the same time think whether the Government of India will accept this demand of ours. They will naturally object to it because they have not granted this right to any unit of the Indian Union. When I oppose right of secession that does not necessarily mean that I advocate integration with India, because in that case all the progressive steps we have taken will get nullified.

If we take even one wrong step that will lead to catastrophe for our country. Our state will be turned into a hot-bed of intrigues. The events of last year clearly show the intrigues. The events of last year clearly show the intrigues hatched by the imperialist powers with regard to our state. It is, therefore, I think that the right of secession is detrimental to the interests of our country.

My friend Mr. Goni has made self-contradictory statements. On the one hand he claims to have much respect for the Supreme Court while on

the other he does not want its jurisdiction over our state. Who does not want an independent and honest judiciary in his country. In all the Federal Constitutions. Supreme Courts are the highest tribunals of law. This cannot happen that the Supreme Court will have its jurisdiction on one unit and not on the other. This point has already been discussed when the Delhi Agreement was presented in the House. Today, what we are discussing is whether the civil and criminal cases should be subject to its jurisdiction or not. But as far as the Supreme Court is concerned, its jurisdiction has been accepted by us all. Now to say one thing at one time and another thing next time will not lead to the prosperity of our Country but to confusion and chaos. This will also endanger our residuary sovereignty.

Now let us take fact that the question of right of recall. There is no denying the fact of our progressive friends respect and recommended this right. But my personal opinion in this respect is that such a right is inherent in the present day democracy. Because when will elect a member for three or four years, the concerned people have a right to remove him after the time limit expires. I think this is real democracy, else we will have to conduct elections every year and waste money and time in election campaigns and the members will not get time to do any useful work. They will waste their whole time in intrigues etc.

Sir, three rights i.e. right to work, right to education and right to rest have been recommended in the reports under discussion. All these rights have been recognized as Fundamental Rights is meant those rights which can be got admitted and declared by a court of law i.e. there always is a legal sanction behind such rights. Although the above mentioned rights have been accepted in these reports, but so far as their implementation is concerned only a directive has been given to the Government in this respect. It is, therefore, that these rights cannot be got accepted as fundamental rights in a court of law, i.e. if the Government rules to accept these rights, we cannot knock the doors of courts and get these accepted by them. When I mean to say is that such rights should also be considered

to be as fundamental rights. A suspending clause should also be provided, by which a time limit of ten or fifteen years may be fixed within which time these rights as fundamental rights, but since in the existing economic system of our country these rights cannot be put into practice. It means that although we accept these rights cannot be translated into practice the Government will be allowed fifteen years time to change the economic structure of the country so that these rights are enforced.

Mr.Ghulam Mohi-ud-Din Hamdani :- Sir, has the hon'ble member appended any note dissent to the report as appears from his speech ?

Mr.Sham Lal Saraf:- No, he is rather discussing the report as a whole.

*Mr.Chuni Lal Kotwal :- What I want to submit is that a clause should be provided in the constitution and a time limit fixed within which time these rights will be put to practice and accepted as Fundamental Rights. If such a clause is provided in our constitution, it will necessarily help our people.

In the end I would submit that these reports have been prepared with great labour and care. I further hope my submission will take in to consideration. With these words, Sir, I conclude my speech.

*Mr.Moh'd.Ayub Khan : Sir, some of the members of this House have opined on the report which are before the House at this time. The main point. Which I have found in the report, of Basic Principles Committee is that special care has been taken for maintaining the unity and the integrity of the State. The National Conference has made it known to the world a decade ago that it will frame such a constitution for different units of the State as will prove helpful in ameliorating the lot of the people, The New Kashmir envisages such a constitution for our country which will be applicable to the State as a whole. It has also been emphasized in the rights that our brethren who are at present living across the cease fire line will be guaranteed full and equal rights. It is a commendable thing. Unfortunately a misunderstanding has been created It is being said by one of our friends that right of secession should be provided in our constitution. It is true that such a right has been recognized in some

countries viz Russia and China. But when we demand for the provision of such a clause in our constitution, we will first have to see its implications, We must not own indiscriminately, If we do like that it will create difficulties for us, If such an article is provide in the constitution of the State it will give a set back to the ideals of the National Conference, Why have we acceded to India? It is because in doing so lies the well being of our state. Being a the part of the Indian Union, we have to share the joys and sorrows of the Indian people, If God forbid any calamity be falls India it will not look decent if at such a time we demand secession from India. It will lead to mutual distrust and the repletion of the events of August last, why did such events occur? It was because of the cheap slogans raised by some people. At present two different slogans viz. impendence and division are being raised with the result that confusion and chaos have been created in the people's minds. As I have already submitted we should adopt such things only as re useful to our country.

A reference has been made to right of recall. There is no denying the fact that it is a democratic right. But when we talk of providing such a right in our constitution we should also link lest it proves detrimental to the interests of our people. It is, therefore, that I am against the provision of this right in our country. I know that such a right exists in the Russian Constitution but there it was granted to the people after a lapse of about fifteen years. In this connection, the foremost thing to be taken into consideration is whether such a right will prove beneficial to our people or not. This very yardstick should be used in assessing the advantages of the advantages of the right of secession also. Citing a quotation from the book "Constitutional precedents" (First Series) by Sir, B.N.Rau will not be out of place. About U.S.S.R. it is stated in his book.

"They have indeed, the right freely to secede from the U.S.S.R" but any activity in this direction is apparently treated by the Soviet courts as treasonable, so that the practical value of right is questionable."

It is obvious from the above passage that when we talk about such a right, we have to assume that there are no disruptive forces behind this demand. To demand the provision of any right in our constitution because it exists somewhere else will be suicidal if the objective reality is not taken into consideration while demanding such a right. Any steps disrupt the unity of Country. I think, we tantamount to doing a great dis-service to the people of that country. We have not only acceded to India, but have also joined hands with its people. So, if we demand the provision of such a right in our constitution, it will create misunderstanding between them and overselves. Our relations with the Indian people are that of our friends. If friends start doubting each other, their friendship will not last long. We have to take every step which caution are care, particularly when it is a question of constitution-making it becomes more imperative on us to discharge our duties with full responsibilities. It is, therefore, that if any step is taken which will adversely affect our progeny it will tantamount to an act of treachery.

The other important point which I have come across is stated in Para 4 of this Basic Principles Committee's Report which reads as under:-

“The Government features of the state constitution would be based on democracy, equality, social and economic justice”.

In this connection, I would like to submit that we are not holding the power for power-sake but for achieving the ideal, we have set before ourselves. There will be no religious, racial and social inequality in the social set-up we are going to establish in our country. In such a social order no discrimination will be meted out to anyone. So far as the political equality is concerned, it means that every citizen of the state will have right to vote and economic equality means that every citizen will get every opportunity for development. Since the elementary needs to very human being are the same. It is, therefore, essential that the Government should provide opportunities to all the citizens to earn their livelihood. The drafting committee should frame the constitution in the spirit it of the

directives laid down in the Basic Principles Committee's Report. Much emphasis has been laid on the economic equality. There is no denying the fact that unless such equality is established political equality is meaningless. If on the one hand are handful of rich men and on the other hand the huge humanity of illiterates and poor men, the result will be that the power will get concentrated in the hands of the few people. It is, therefore, essential that the Government take step to ameliorate the lot of the people and implement the programme of 'New Kashmir'

Besides, one more point is contained in the report i.e. close relations will be established between the people and the Government, It is written in the report. In order to satisfy the urge of the people of the state for intimate association with administration at all levels. The constitution shall embody suitable provision to that effect. Suitable provision shall also be made enabling the people to develop their various cultures, languages and scripts and to promote closer association and better understanding amount themselves.

Sir, the above-mentioned lines have amply shown that on the one hand, the people of this place will have intimate association with the administration and on the other hand, unity and the integrity of the state will be preserved. I think that the Drafting Committee aims at establishing a type of Panchayat Raj in the state i.e. the basis of the administration will be the village level worker. Naturally, it will lead us to an administration system wherein every class and community of the state will be duly represented. Besides, all the cultural units of the state will get opportunities to develop their respective cultures, languages and scripts. Where lies the difference between an autocratic and democratic set-up? It lies precisely in that fact that whereas in the former the power held by one individual in the latter the power vests in the people.

Sir, in order to democratize the power, it is essential that every citizen be afforded ample opportunities for development. it can only be

achieved if Panchayat Raj is established in the state. It is, therefore, that the Drafting Committee should bear all these points in mind.

With these words I would like to request the Hon'ble member to keep all these points in view while considering the reports. Allow me sir, therefore, to conclude my speech.

*Mr. Abdul Gani Trali : Sir, before I say anything on the reports presented before the House by Hon'ble Mir Qasim I would like to congratulate the members of the Drafting Committee for preparing these reports. For some years past the residents of the state have been subjected to a barrage of propaganda from interested quarters to the effect that if once Kashmir acceded to India the rich people from outside will come over to this place and purchase the lands of our poor peasants. As is obvious from these reports no such things going to happen. The rights of the State Subjects have been preserved. So it can easily be seen that such a canard was launched by the enemies of the people. These have given to lie to this nasty propaganda of our enemies about the land reforms it was rumored that the law will be modified and amended, but it is obvious from the reports that the law pertaining to these reforms will not be amended or modified. Similarly, the citizens of the state be given preference in the recruitment to services etc. The rights of all citizens irrespective of their caste, creed and color will be preserved.

My learned friend Mr. Kotwal has drawn the attention of the House to "right to work". This right, I think, should be accepted forthwith. The main problem of the state is the unemployment of its people. The bulk of our people are poor. We will have to request the Govt. of India to help us in removing the poverty of our people. It is, therefore, that this right to work should be accepted as one for the fundamental rights. The Govt. might up to a limit of ten or fifteen years by which time the unemployment problem should be done away with.

It is obvious from the reports that these have been framed after giving the problem much thought and consideration. Therefore sir, to conclude my speech I lend support to the reports.

***Master Ghulam Ahmad : Sir, I also want to speak on one or two points of the reports of the Basic Principles Committee and the committee of Fundamental Rights. It has been a practice the world over when a political part comes in the field to represent the people. It lays down a programme of action for it self, which are promises to implement if it comes to power. The people judge the parties by their deeds. If parts live up to their professions they survive or else they are thrown into the set of oblivion. Our National Conference also framed a programme for it self which is embodied in the new Kashmir. It envisages a planed economy and establishment of a democratic society wherein there will be no religious, class or social barriers. In this connection, the reports are based on this very programme and the directive that it contains with regard to right to work and right to education is commendable. The preservation of the state subject rights is also worthy step. The constitution of India will also be amended accordingly, i.e. necessary clauses will be added to it to maintain the special status that has been guaranteed. To the Jammu and Kashmir state. With these words sir, I lend my support to the report.**

***Shri Kulbir Singh : Sir, much has been said on the different aspects of the reports presented before the House. We have formulated our opinion with regard to our constitution in the shape of a document. This document defines our relations with the Indian Union. All those points which are connected with our residuary sovereignty are mentioned in it. These reports have dispelled all the doubts that has arisen in the minds of our people. It is essential to define relations with India “since we are becoming one of its constituent units. So far as the preservation of our residuary sovereignty is concerned, we have crossed many stages in this respect. Firstly, there was the instrument of accession then came the Delhi Agreement and finally**

there is the present draft. This draft embodied in it self all the process we have gone through with regard to the constitution making of our country. We are exercising our internal autonomy which completes freedom. In the present day world no country can live in isolation. Since we constitute a unit of the Indian Union it is necessary that the Govt. of India should help us to ameliorate the lot of our people.

Today, not only our internal sovereignty is being recognized but also the jurisdiction of the Supreme Court.

The Supreme Court can interpret our fundamental rights but these rights will be framed by our constituent Assembly. Although the Supreme Court will have jurisdiction our criminal and civil cases of our state yet our Legislation will enact laws to protect our interests.

One of the first principles of our programme is as follows:-

“The equality of the rights of all citizens irrespective of their nationality, religion, race or birth, in all spheres of national-economic, political, cultural and social life shall be irrevocable law “

“Any direct or indirect restriction of these rights, or conversably the establishment of direct or indirect privileges from any citizens or class of citizens on account of nationality, religion, race or birth, as well as propagation of national, racial, or religious exceptionalism or hatred and contempt shall be punished by law”

All these principles are contained in a report. One of the main independents in the way of world's progress has been that concessions have been given to people on religious basis. Formerly discrimination was exercised with regard to various groups of people because they happened to belong to a particular religion. But we have done away with this religious discrimination. The constitution we are framing aims at ameliorating the lot of the people. According to the provisions of our constitution no one

religious group will be given preference over the other. On the contrary, every citizen of the state irrespective of his religion, caste or creed will be afforded equal opportunities for development. We have studied all the constitutions of the world and have adopted whatever was good in them. There are two types of rights, the first are the social rights and the second are the political rights, so far as the political rights are concerned, they are going to be conferred on all the citizens of the state there will be no so-called majorities or minorities; every citizen will be an equal partner in the body-politic of our country. As is obvious our social system will be based on complete equality.

We have tried to protect the cultural rights of our people. It is evident from these reports that various languages and scripts of our state will be given full opportunities for development. It is not because a particular script or language belongs to a community but because these languages and scripts belong to our country. In former times no such thing was done. Only particular classes were provided with all types of facilities and concessions. One nationality was given preference over the other. There is no denying the fact that different nationalities live in our state. Till now they used to remain at logger-heads with each other, but with the advent of the people's regime consistent efforts are being made to foster friendship amongst these and forge everlasting links of unity and brotherhood between them. It was precisely for this purpose that a common platform was evolved. We want that no group or class of people should remain backward. The reports recommend for the amelioration of the lot of the people.

Sir, the reports have been prepared after keeping the programme of "New Kashmir" in view. And everyone knows that previously a handful of people ruled our country, privileges were conferred upon a small racial minority with the result that this minority dominated every walk of our

social life. Now according to the reports all these opportunities are to be afforded to every one for development irrespective of his caste, creed or color. We intend to decentralize the power so that the people share it equally. In other words the people belonging to different units of our state should not think that they are being bossed over others. The reports have ended the state of uncertainty existing in our country. With these words, Sir, I support the reports.

*Mr.Chhaju Ram:- Sir, the reports of the Fundamental Rights Committee and Basic Principles' Committee are being discussed in the House. It needs to be mentioned here that the Drafting Committee has prepared these reports in the light of the "New Kashmir"; the autocratic system had reduced certain clauses of our population to the position of serfs and the bulk of our people were subjected to cruel exploitation. The exploited were lured to such an extent, that they could not dream of fighting for their right. Such were the conditions of our masses during the former times, but thanks to the efforts of national Conference, had not succeeded the son of a Zaildar would have continued to be a zaildar till the dooms day. This organization from its very inception set before itself the task of ameliorating the lot of the people of Jammu and Kashmir. It aimed at establishing of such a social order where every citizen would get two square meals a day, a house to live in and clothes to cover his body. As is obvious, untouchability will have no place in such a system.

Sir, the programme of the National Conference raised the status of the downtrodden masses of our State. When these people heard its message they heaved a sigh of relief and started giving sacrifices for the achievement of its ideal. This untouchability had condemned lakhs of many crores of Indians to a life of degradation and servitude. It is because of this that these reports have provided for the abolition of untouchability. As far as this report is concerned,

I have some objections with regard to certain points. Now, I will take these points one by one.

It is provided in the Reports that a permanent resident of the State is he who has been living here for the last ten years and owns immovable property. But I think that no such restriction of owning of immovable property should be imposed. In this connection, I would like to say there are hundreds of people who are permanent residents of our State but they own no immovable property. Whatever little their fore-fathers owned was snatched away by the cruel and crafty rulers. Most of these people left for plains because of 'Begar' system which was prevalent here. There is no provision for such people to become permanent residents of the State. Mention has also been made with regard to backward classes. In former times, when power vested with the handful of people. It was but natural that people would be subjected to exploitation. Therefore, it is necessary to remove the social barriers which divided the people and bring all the people would be subjected to which divided the people and bring all the people in line with the other comparatively advanced sections of our population. Therefore, concessions should be granted to the backward classes of the State. It is a sad commentary on our social system that hardly four or five graduates are to be found among the four lakh Harijan population of the State. These Harijans can hardly earn their livelihood; and therefore, cannot educate their children. It is, therefore, essential that these backward classes be granted special concessions.

It can be seen from page 5 of the Report that measures will be adopted to ameliorate the lot of the working people of the State. So far as the right to work is concerned, it cannot be ignored. It is quite possible that this right may not be granted with immediate effect as proper conditions do not exist but it should be granted in the future. My learned friend Mr. Goni has demanded for the incorporation of

right of secession in the report, but as far as I remember, he has always supported accession of the State to India. He has never opposed this accession previously. It seems he has changed his attitude because of the Praja Parishad, but those who are real patriots never alter nor change their ideologies (Cheers). He has named Dr. Khare, Dr. Khare knows his position well. The people of India have no faith in men like Dr. Khare. They have complete confidence in Mr. Nehru, who is presently playing a noble role for the preservation of world peace. Even the Prime Minister of Pakistan had to declare that he looked to Mr. Nehru as his elder brother. The Atom Bombs will come and go, but the message of Mahatma Gandhi will last forever. We should not be cowed down or scared by reactionaries or communalists. We should stick to our ideals and Principles. We have found that in India and in India alone we can achieve our ideals, therefore, we cannot think of any other country. Under these circumstances to demand right of secession is beyond my comprehension. Every Kashmiri knows that his condition is improving. He gets foodstuffs at cheap rates and is leading a respectable life, when Mr. Goni demands the incorporation of right of secession he does not represent the people but himself. With these submissions, Sir, allow me to conclude my speech.

*Mr. Abdul Khalik Butt:- Sir, most of the members have commented upon the reports of the Basic Principles Committee and Fundamental Rights' Committee and there is now very little scope for further comments. However, I would like to submit a word or two in support of what has already been said by my friends. The world knows about the sacrifices we had to render for the achievement of our freedom. But this freedom was not worth the name, as we had no constitution, which could govern us. Now we have embarked on the path of constitution making and are determined to give a democratic

constitution to our country. If any Hon'ble member thinks that, he is expressing his opinion under duress. I would like to tell him that he should then rise to the occasion and give his opinion fearlessly otherwise his attitude will amount to treachery with the' people he represents.

We acceded to India quite a long time ago when the tribal herds invaded our country. At that, time the Indian Govt. did not compel us for accession. We of our own accord approached the Govt. of India to help us in our hour of trial. They helped us at that time and even now are helping us. It was, therefore, we never thought of right of secession to be provided in our constitution. The constitution we are framing provide for freedom of speech and expression, abolishes the scourge of untouchability, guarantees the right of adopting any profession for every citizen, and affords equal opportunities of development to all citizens of the state irrespective of the caste and creed. As is obvious, our aspiration is getting fulfilled. Every nationality of our state will get the opportunity of developing its culture. It has been provided in the constitution that education will be imparted to the children in their mother tongue. In this connection, I would like to submit that education should be made compulsory up to the middle standard.

Now I would like to make some observations with regard to the speech made by Mr. Goni. He has expressed concern regarding to the jurisdiction of the Supreme Court, but I fail to understand the reasons therefore. After all the Supreme Court is meant to dispense justice to our people. If our people fail to receive justice from the local courts, they can seek the justice from the Supreme Court.

With regard to the right of secession would like to submit that the Govt. of India has always been generous and helpful to us. It is, therefore, we want to impress upon them that we are loyal to them (cheers) we are out to cement our relations with India. God forbid, if

the Govt. of India has future resorts to any undemocratic methods in dealing with our state, I assure you, it will meet with serious resistance from its own people. To demand the right of secession tantamounts to cowardice (cheers). No such demand was put forth when we abolished the hereditary rule. At that time also Mr. Goni was present in the House but he did not demand the provision of such a right, is it not provided in the programme of the "New Kashmir" that responsible Govt. should be set up under the aegis of the Maharaja, but even then we have removed him it is strange that Mr. Goni did not protest against such a step since it went against what was provided in "New Kashmir". With regard to the matters connected with Defiance, I would like to submit that when the Pakistan rulers lunched their perfidious attack on us, We could not at that time defend our land with the "New Kashmir" booklet in our hands (cheers) we, therefore thought it proper to accede to India. The Government for Indian came to our rescue and drove out the enemy from our land. We are framing our Constitution in the light of the "New Kashmir".

Mr. Goni has said that if we go to Amritsar we will not find single Muslim there but here we have not to deal with Muslims and Hindus but with human beings. When in business, considerations of religion are out of place. The difference is to be observed only when we have to consider the question of religious freedom.

So far as the arrest and detention of S. Mohd Abdullah is concerned, I would like to submit that we accepted his lead faithfully up to the time he followed the programme laid down in the "New Kashmir", but no sooner did he give it up than we threw him overboard. His action was leading the country towards a catastrophe. It is therefore, he had to be arrested and rightly so, the demonstrations held after his arrest were organized by those who wanted the restoration of landlordism and monarchy, but when

people came to know the reality they declined to take part in such unlawful activities. In my constituency only two arrests were made and there was no demonstration.

Mr. Goni has questioned the representative character of the Assembly, but it is strange that such an idea never struck him before and he always supported the measures taken by this Assembly, and now when he raises this question, it really sounds fantastic. Of course, it is a different matter if he does not represent anybody (Laughter)

Now I would like to draw the attention of the House towards one more point, which has arisen during the discussion. It relates to the Banihal Pass. If there is any danger from it, that can only frighten Mr. Assdullah Mir, as he is resident of that illaqa but so far as the Kashmir are concerned they are not least disturbed by it. They are determined to conquer it. The Kashmir post-men and coolies have always reduced its pride to dust. Never in our history has this idea hunted any of our rulers but God knows who today Mr. Goni should be scared by it.

Some of our friends have demanded the provision of right to work. But I honestly feel that the Government is not at present in a position to guarantee the implementation of such a right. Therefore, it will be foolish to provide such a right in our constitution unless the State is in a position to do so. The article can be provided in our Constitution only when we establish economic equality. With these words, Sir, I support the resolution.

*Hon'ble President: Before adjourning today's session, I would like to inform the Hon'ble members that we will have only one sitting of the House tomorrow, which will last up to 1 P.M.

Now the session is adjourned and will again meet here tomorrow at 11 a.m. to resume the discussion.

Note:- The House adjourned till tomorrow, the 5th of February, 1954 up 11 o'clock.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

February, 1954 SESSION

Friday, the 5th February, 1954/24th Magh, 2010.

The Constituent Assembly met in the Assembly, Grey Hall, Jammu at eleven O'clock.

Mr. President (Hon'ble G.M. Sadiq) in the Chair;

Mr. President. **Mr. Ghulam Mohi-ud-Din Hamdani.**

*Mr. Ghulam Mohi-ud-Din Hamdani: **Sir, since yesterday the report of the Basic Principal Committee and the Fundamental Rights and Citizenship Committee have been under discussion in this House, and several Hon'ble Members have expressed their views on the reports, I would also like to place my views before the House.**

So, far as the basis of our movement and our Constitution is concerned there are two aspects. One is that the unity of Jammu and Kashmir is to be preserved and the other is that sovereignty and final authority must reside in the people. The normal feature of a Federation is the division of sovereignty i.e. in every Federation sovereignty is distributed. So far as our accession to India is concerned, while we have transferred sovereignty to the Union in respect of these subjects in which we have acceded to India, we have retained all the residuary powers in accordance with our Promises and commitments to the people. I think that the manner in which we have incorporated in the report the decision arrived at under the Delhi Agreement is well as those subjects in respect of

which we have acceded to India is really commendable. I honestly believe that no amount of praise will be too much for the hon'ble members for their painstaking labour in preparing these reports.

As pointed out by an Hon'ble Member while referring to the Citizenship Rights of the citizens of this state, the existing situation in the State is such as to make it essential for us to safeguard the rights of the citizens, and safeguard has been provided for in the report after a thorough assessment of the whole situation.

Kashmir enjoys a special position in the Union of India, which position has been given to after the whole situation had been thoroughly studied. In view of the part played by Shri Jawahar Lal Nehru, the Late Sardar Patel and the Late Mr. Gopala Swami Ayyangar as well as by our Hon'ble leaders, in giving this position to Kashmir, it was extremely important that position be kept intact.

As regard the language issue, the report recommends adoption of Urdu as the official Language for the state. Ample scope has also been Urdu provided in the report for other regional languages and the manner in which the recommendation has been made for the promotion of these languages is unique. So far as other things, such as the Supreme Court are concerned, I may submit that there are no new things for us. When we first met in the Assembly, Hon'ble Sheikh Mohd Abdullah declared his policy in no uncertain terms. That policy is our guide today. His policy statement was the best advocacy of the need for maintaining and strengthening our accession to India (Cheers). We are not doing anything new today, all that we are doing is to remove defects and shortcomings.

Our decision to align ourselves with India has been taking under a particular sentiment. We acceded to India not because we were actuated by any desire to demand the creation of a separate state on communal basis but because of the community of principles that exists between us and the people of India and these principles which

are embodied in the “New Kashmir” can fructify only by our remaining in India. It is true that the sense of insecurity and uncertainty which has been prevailing amongst our people over since 1947 must be ended if we are to improve their economic condition.

An Hon’ble member made certain observations regarding the jurisdiction of the Supreme Court. It may be recalled that during the last session we had agreed upon certain principles. For instance, we had agreed that where there was a dispute between the state and union or where any decision had to be taken regarding the fundamental rights or the constitutional interpretation the Supreme Court was the final authority to decide these issues but now we have also accepted the appellate jurisdiction of the Supreme Court in regard to civil and criminal cases. I was, and still am, firmly of the view that in view of the appealing poverty and the general condition of the people of the state the Judicial Board was an unbearable burden on our exchequer. It will be seen from the records that it had little work to do the incurred on the Board was considerable. So far as appellate jurisdiction is concerned, if a sessions judge convicts a murderer and the High Court acquits that murderer and vice versa or, in civil case, if the amount involved exceeds Rs.20,000 an appeal can be filed in the Supreme Court. These are the only two matters which have been transferred to the Supreme Court, and I am sure that under the existing condition this will not substantially affect our state. It was stated here that jurisdiction of the Supreme Court will affect our personal laws. I can say with certainty that it will not. The Supreme Court is the highest judicial authority in the whole of the Union. It will not be function of the Supreme Court to alter the existing laws or to change the Mohammadan Law or the “Manu Samriti”. As remarked by an Hon’ble member, if any person commits theft the hand with which he committed the offence is according to

the shariyat to be cut off. But in this age such a law is hardly practicable in any Islamic State. Besides, changes have to be made often in the laws for the benefit of the society.

Mr.Abdul Gani Goni:- Point of order, Sir, that reference to the Shariyat should not be allowed in the House. It is an insult to the shariyat and will injure the religious susceptibilities of Mohammadans.

Mr.President: It is a legal point.

Mr. Ghulam Mohi-ul-Din Hamdani: I did not make any remarks about Shariyat. I was speaking on Mohamman Law, I submit that the purpose of law in punishing the convict is to reform him. Consequently, in France, law has abolished capital punishment, for their argument is that by hanging a man he is not reformed.

I will not turn to the remarks made by one Hon'ble member that our communications with India are not satisfactory and that Banihal also presents an obstacle in this respect. I submit that this is unfair to the leader in whose name he is making this statement. In this connection Sheikh Sahib's Policy statement is not hidden from anybody, and there is nothing that I can add to it. In his last speech he ruled out our accession to Pakistan. He emphasized that it was absolutely essential for people in general and Muslims in Particular to abide firmly by their promises. It is my honest belief that one or two of our colleagues had tried to provoke Sheikh Sahib simply in order to cover their misdeeds and mistakes. It was precisely because this he had stated placing emphasis on legal heir-splitting and Indian communalists. The responsibility for the catastrophe that followed can therefore, be squarely laid on the shoulders of one or two such persons.

So far as the other issue are concerned we are giving them finality. Today we are giving final shape to our long cherished Constitution, the Constitution which we have been propagating and for which we have made so many sacrifices.

Article 370 of the Indian Constitution, which governs our relationship with India, has been placed under a Chapter styled as transitional and temporary provisions. Since these things are done on a reciprocal basis, I would request the Hon'ble Members who are drafting the Constitution that in view of the fact that we are now finally approaching India this chapter be given a position of permanence so that the disruptive elements may no longer get any chance of creating misunderstanding.

So far as finalization of the Constitution itself is concerned we have already completed parts. We must now take up the drafting of the Constitution in right earnest and after finalizing it, give it to the people without delay.

It has been contended that there are other political parties in the state besides the National Conference. No doubt there are other parties, but after the constitution has been completed we shall not remaining office even for a single minute. That, however does not mean that the National Conference Leaders who for twenty years waged a ceaseless and fierce struggle for the attainment of freedom will retire into seclusion and become silent spectators. We shall also go to the people and sincerely place our ideology before them. Everybody in the State will have full freedom to express his religious and political fanaticism is concerned it shall be declared as a capital crime so that the same unpleasant happenings which we witnessed in our neighboring countries and of which we have become victims may not be repeated in our country.

In this connection I may also submit that we cannot afford to ignore that new development which has taken place in the international situation. A whole series of conspiracies is being unfolded. Our country has all along been peace loving; we have always resented warfare. History bears testimony to the fact that war has never solved the basic problems, nor it ever will. We do not want to be pawns on the international chessboard. Today; U.S.A. by giving military aid to Pakistan, is endangering the security of our country and is trying to entangle us into their conspiracies.

So far as our foreign policy, external and defense is concerned we have entrusted all these matters to the Union of India. Since India's foreign policy is based on neutrality, it is our duty not to incline ourselves towards any power bloc. If we are to uplift our masses and extricate them from the abyss of poverty there is only one path for us, namely the path of neutrality to which India and her illustrious son Pt. Jawahar Lal Nahru are firmly pledged.

Sir, before I conclude my speech, I will make an appeal to the Hon'ble Members and especially to Hon'ble Bakhshi sahib that in accordance with the procedure laid down in the Constitution, and keeping in view the changing international situation, they should invite Sheikh Mohd. Abdullah who has made so many sacrifices in the struggle for freedom and impress upon him that if he is still pledged to those lofty ideals which had inspired him and which had been so dear to him ideals which had inspired him and which had been so dear to him ideals which are now being fulfilled with great courage and honesty by his right hand man, the greatest champion of the freedom movement he should hand in hand with his other colleagues help this HOUSE in the its greatest task of banishing ignorance, poverty and hunger from this land and lead the people forward.

With these words Sir, I conclude my speech.

*Mr. Ram Piara Saraf: Sir, we have to see whether the report which is before us and which has been under discussion since yesterday, fulfils the promises that we had held out to the people for the betterment of their political economic and social life. I think this report fulfills them to a great extent, and, therefore, I support it.

Sir, the Constitution forms the basic law of a country and all institutions and laws spring from it. We have to see, therefore, whether the Constitution that is being framed in accordance with the political, economic and social conditions obtaining in the country. If the Constitution

is above the level of political consciousness, of the masses the latter will fail to appreciate it. If on the other hand, it does not come up to their standard, the framers of the Constitution will alienate themselves from the masses. The question arises; keeping in view the conditions responsible for the political economic and social backwardness of our country, what foundations should the future Constitution of our state be based upon. Some people want the constitution should be framed on the socialistic lines, but that would be too progressive a measure for them. On the other hand, if, after the abolition of landlordism. Such a system will be out of tune with the political consciousness of the masses and they will turn away from it, and all chances of their progress will vanish. Therefore, in preparing the Constitution we should not lose sight of the level of social and economic development of the masses but should frame a constitution that would reflect progressive desires.

Regarding the demand for right of secession, I would submit that the masses are not yet conscious enough to grasp the significance of this slogan and they cannot, at this stage, gain anything from it. There is no doubt that in itself the principle is a good one; but it is for only those who have attained a high degree of social, economic and political development. While the masses here are facing difficulties and deep conspiracy is being planned against them. That conspiracy is not only aimed against the people of this place but also against those of Pakistan, and is capable of disturbing the peace of the whole world. Therefore, to shout slogans of this character at this stage is very dangerous far from alleviating our sufferings and difficulties, it will multiply them. The slogan is similar to that raised by the reactionary elements of Jammu, namely, the merger slogan. Just as we do not want to hear anything against our accession to India similarly we are opposed to the demand for merger. It will not therefore, be well to keep in our constitutional right of this nature which the people cannot understand. This right should be demanded only when other states in India have also received similar rights. I submit, sir, that this reactionary and

disruptionist slogan should be opposed tooth and nail. It is not in the best interest of the Country. We must work shoulder to shoulder with the Indian democracy and our programme of "New Kashmir" can be brought to a successful consummation only by our falling in line with that democracy. Since we have decided to align our democratic movement with that of India, it is but necessary that we march ahead hand in hand with the democratic movement in India. Our decision to accede India has also had its origin in this similarity of outlook as well as our belief that the plans embodied in Kashmir can be best implemented under the Indian democracy. Under the aegis of the democratic movement of India alone can we succeed in achieving our objective for which the National Conference has striven since its inception, and this struggle forms our democratic movement. New Kashmir is our goal. We cannot attain this goal in big jump. Under the existing circumstances, we have to cover long distances before we can reach our goal and these reports show us the way to that goal. In these reports are provided all those things which enable us to carry our programme of new Kashmir forward. We have abolished landlordism in our State and this achievement of ours serves as a guiding star for the democratic movement of India. It beckons the people of India to strive for the abolition of the institution of landlordism in their country too.

The most important feature of our constitution is the acceptance of the principle that the office of the Headed of the State shall be elective. This is a big concession.

About the Supreme Court, many Hon'ble members have expressed their respective views. The extension of the jurisdictions of the Supreme Court over the State does not imply any restriction of our freedom. In fact, this is a concession for us. Legislation is, unfortunately, being proposed in India for restricting the powers of the Supreme Court and the High Court. But in my view the judicial courts should be given maximum independence so that they may be able to discharge their functions independently and without fear. Only then can the grievances of the people be redressed.

In regard to civil liberties, I submit that there are one or two things with which I am not in agreement. For example, clause 4 of the report on Fundamental Rights contains the words, "incitement to an offence". This means that the Government can at any time place a person under detention by declaring his or her speech undesirable. My view is that a safeguard of this nature, which abridges our civil liberties, is unnecessary. I suggest, therefore, that these words be deleted. In the interest of the public order Government can at any arrest a person. Where, then, is the necessity for keeping these words. The mere fact that the Indian constitution contains them is nor reasons why we should keep in our constitution. As regards the words 'public order' occurring in this clause, I think that in view of the delicate phase through which our State is passing it is essential to retain these words for a period of say, five years. In this connection I submit that two types of evil forces are at work in our State-the communalism of Jammu and the communalism of Kashmir. Both these forces we have to combat. In order to check the activities of these elements who are trying to wreck the solidarity of our State, the retention of the words 'public order' is necessary for about five years at the end of which they may be dropped.

Sir, in regard to preventive detention, I submit that further clarifications of the clause, dealing with person to whom and the condition under which the Preventive Detention Act will apply, is necessary. There is a possibility that if an Hon'ble Member of this House makes some speech he might be arrested under this Act. When an Hon'ble Member voices the grievances of the people or demands protection of the rights of any class or section of the public, this Act should not be used against him. Only in two cases should this Act be invoked. First when the security of the State is in danger, and secondly, when there is threat of war. Another submission I want to make is that no member of this Assembly should be arrested unless the permission of this House is obtained. We must provide it in our constitution that no member of this Assembly shall be arrested

without the permission of the Assembly or if the Assembly is not in session, without the permission of the Presiding Officer.

Sir, while supporting this report, I want to submit that whenever we wish to make any amendment in this Constitution, we should have the right to do so. Secondly, the people should have the right to enact any legislation they like in the State. In other words except in regard to those three subjects which we have transferred to the Indian Union, the State Legislative should be empowered to legislate on all other subjects.

I believe, Sir, that with the exception of the points mentioned about the reports fulfill all other requisites. With these words I give my support to the reports.

*Mian Nizam-ud-Din : Sir, as some of the Hon'ble Members who have preceded me, have through sufficient light on the principles embodied in the report of the Basic Principles and Fundamental Rights Committee, I think there remains no need to dwell on the same at length. Still it is necessary that I should submit my humble ideas.

Sir, the rights of the backward classes of the state have been guaranteed and special concessions have been granted in their favour through special provision. I, therefore, take this opportunity to thank the leaders of the House and Hon'ble Members who have paid special attention to the claims of the backward classes who have always been ignored in the past (Cheers).

Sir, we have three kinds of unity- religious units, National unity and unity of race. So far as the question of race is concerned, man belongs to one and the same race. The Holy Quran puts it in unambiguous terms, "O ye! We created you either as man or as women, and we created classes and clans out of you so that ye be distinguished from each other. Verily, the great amongst you are more God-fearing and virtuous". God washes away the difference of race and, the great before Him is one who is more God-fearing and virtuous. The above words of the Holy Quran are addressed to man

in general and not to the followers of one particular religious. At another place in the Holy Quran the words. "this Holy Book is a guide for only those who are God-fearing and Virtuous", occur.

As regards the question of unity of religious, I, in the capacity of a Sajjada Nishin would say that eminent saints as Kh. Mohi-ud-Din Ajmeri and Mujaddid Alf-i-Sani (Imam rabbani) are laid to rest in India. These eminent personalities of the past are enshrined in the hearts of the people and this is the greatest attraction for the Muslim population in the state to accede to the union of India.

The people of the State have since long decided to throw their lot with the people of India. Hence, we are one with the people of India in respect of religious, nationality and race.

Sir, it is very recently that the Prime of Pakistan has addressed the Prim Minister of India as his elder brother and therefore, if we have joined hands with the elder brother leaving aside for younger one I think we have committed no mistake at all. Besides, in India we have personalities of the status of Maulana Abdul Azad and Maulana Madani. I would once again emphatically say that in India we have the holy shrine of Sir-hind Sharief which in impotence is next to Kaba. We have acceded to India where Kh. Mohi-ud-Din Chisti (may peace be upon him) is buried and it is from these points of view that our leaders have chosen to accede to India and we have followed their directions.

The reports submitted by the two Committee have not been prepared under duress or the influence of any outside authority. I stand a witness to this fact as I was also on the Committees, which prepared these reports. I need not pay any heed to the charges, if any, brought against us based on personal ill-will or grievance. We have provided everything in the reports that will lead to the good of the people.

As the time at my disposal is very limited I want to cut my Speech short. I need not to delve into the legal intricacies and political complexities. That is the business to politicians and lawyers who have already clarified the whole position. They have met the objections by advancing convincing and cogent arguments. I think it advisable that we should keep ourselves prepared to answer objections if raised, at any time therein lies the good of the people and the country at large.

The decisions arrived at in respect of the Supreme Court etc. are laid down in the reports. These decisions are correct to the core.

With these words, I support the reports.

Shri Kushok Bakula: As you are aware, Sir, the people of Ladakh have all along been voicing their feeling through press and Platform in favour of accession to India. Our demand was not based on sentiment alone but we are conscious that our concept of freedom, our ideology of giving equal rights and treatment to every son of the soil irrespective of caste, creed and religion in all spheres, social economic and political and maintaining secular character of the State, could materialize only if our knot were hooked with India. It may be recalled that Indian Constitution based as it is on equality of mankind contains sufficient guarantee for the purpose.

Sir, during the past few months we have deliberated on the issue of Basic Principles and Fundamental Rights. After mature deliberations and weighing all pros and cons a formula has been evolved by the Basic Principles Committee. It is gratifying to note that whereas our aspiration for State's accession to India have been kept in view in drafting the reports the need for necessary reservations to suit the local conditions and needs have not been lost sight of. This formula gives us the privilege of being a citizen of great country; of utilizing its vast resources for our progress and prosperity, for expansion of our trade and for capturing better

markets; of obtaining expert and technical advice and assistance in putting through our big development schemes and projects; of exploiting our latent potentialities of establishing and expanding industries in the state, our autonomy and internal sovereignty remains unaffected, I therefore on behalf of the people of Frontier District not only support the report as presented but also take this opportunity of congratulating the members presenting such a well considered and well balanced report.

The Hon'ble member, Mr. Abdul Gani Goni opposing the motion, has made a reference to the absence of the absence of the Kargil Member I may say sir that I have had many occasions of exchanging views with that Hon'ble member on the subject and I can assure you that if he were present here, he would give his whole-hearted support. It is unfortunate that due to inclement weather conditions he has not been able to participate in this session.

So far as the question of right of secession is concerned I am sorry I can not contribute to the views expressed by the Hon'ble Member. If his point of view is accepted I am afraid it will neither be in our interests nor is that of the people of India will naturally look upon us with suspicion and this fact in itself will stand in the way of strengthening our ties of friendship with them, on which we are so keen. The uncertainty and a sense of insecurity now prevailing will continue indefinitely and will stand in the way of our advancement in all walks of life be business or some other profession. The uncertainty will afford opportunity to the mischief mongers within the state and outside to create trouble and disturb the peace and tranquility of the state to maintain which is not only our cherished desire but also a sacred duty. Even so in the event of contingency of the like arisen I do not know what will be our fate. With India our ideologies are identical. I cannot say so about Pakistan which is dominated by Nawabs, Jagirdars and and other people who have

simply in order to maintain their position not so far been able to frame even their Constitution. To bank on them will be entirely grouping in the dark. What will become of our Land Reforms and other ameliorative and relief measures?

The only alternative life with us would be to remain independent. This too is not possible for we can ill-afford to safeguard and defend our far-flung border spreading over thousands of miles against an onslaught by an antagonistic neighbor. We have recently had the experience of our helplessness when the raiders attacked us. Our inability to have our own defense organization would pave way for the Imperialistic powers to dominate us and make us cockpit of foreign intrigues. Nor are we self-supporting units economically. Not only that we depend on others for food, cloth, salt, sugar and other essential necessities of life, which are not available in the state. We could hardly maintain our solidarity and keep the three different units, which are culturally distinct from one another together.

I mightily support the move because we have to look towards the future of our trade, we have to tackle the majestic irrigation problems; we have to safeguard our culture and mitigate unemployment; we have to raise the standard of life of our people; we have to turn barren lands into greeneries and the present constitution of the state as contained in these reports, as protected by the constitution of India can alone safeguard this. Here man is not differentiated from man. Internally we are free and where we are short and want help the secular Republic of India is there to lend us a helping hand, as it has been doing and will continue to do.

Mr. Assadullah Mir : Sir, the reports of the Basic Principles committee and the Advisory Committee on Fundamental Rights and Citizenship have been under consideration in this House for the last two days.

Hon'ble Members of this Assembly have expressed their unanimity of opinion on various aspects of this report.

But a voice has been raised from one corner. What is that voice? To grasp the significance of that voice it will be essential to study the background of the voices, and probe into its pros and cons. We must see why this Assembly came into existence. What, after all, was the objective before the country and why we underwent so many difficulties and hardships. The objective was to banish ignorance, poverty and unemployment from the country. This is the principle on which New Kashmir is based. It was to uphold these principles that the forty-lakh people of this state irrespective of religion and creed made sacrifices and bore hardships under the banner of the National Conference.

At last the day came when a democratic form of Government was established in the Jammu and Kashmir state. Unfortunately, however, India was partitioned, and Pakistan, for the creation of which the Muslim League had agitated, came into being. Kashmir was, therefore, faced not only with the task of establishing a democratic Government but also with the question as to which country she should accede to. After carefully considering the situation the National Conference and the people of this state who were defenseless and in a state of subjugation decided to align themselves with India. When Pakistan sent armed tribesmen into the state to invade the people, the latter were defenseless and helpless. Pakistan had organized the invasion with the avowed intention of bringing the people of the state under her fold. The tribesmen subjected us to humiliation and trifled with our self-respect and our principles. But praise be to the people to our leadership and to every Muslim and every Sikh of this state who heroically fought back and did not allow the invaders to remain on our sacred soil. It was a test of principles and we stood the test successfully.

We were, then, faced with the question as to what would become of our future. It was to seek a solution of this problem that this Assembly came into being. All the Hon'ble members of this house are representatives of the Nation. I can say without any fear or contradiction that they represent forty lakh people of this state. No power on earth be it American or England, be it the Indian communalist or the Pakistani communalist can challenge this fact. We are answering that challenge today. Our decision will be final and irrevocable, and no power will be allowed to prevent us from giving final shape to the decision. I say that the decisions taken by this House and its members will be the decisions of the people. Therefore, to raise a lone voice from a corner that this House is not competent to decide the future of the people of this state is nothing but sowing seeds of discord and dissention. I want to reiterate that whatever decision has to be taken will be taken in the House and that no one sitting in Delhi or Karachi can impose any decision on us unless that decision has the approval of this House. Any one who says that this House has no competence to decide the future of the state not only deceives the nation and the people but also deceives India and deceives himself. The purpose of this slogan is simply to create uncertainty. It was to put an end to this uncertainty and to stick to our principles steadfastly that we bade farewell to the leadership of Sheikh Abdullah and in the interest of the nation, placed him under detention in a fine Dak Bungalow. Therefore, the assertion of an Hon'ble member that the House is not sovereign and is not competent to take any decision regarding the future of this State has no justification whatsoever.

Mr. Abdul Gani Gani: For information of the House I may submit, Sir that I never said that was not sovereign.

Mr. Assadullah Mir: I am grateful to the Hon'ble member who has changed his view overnight and who has accepted the sovereignty of the House (Cheers).

I submit, sir, that so far our accession to India is concerned; we are not doing anything new today anything new today. As far back as 1947 we acceded to India through the instrument of Accession which was later followed by the Delhi Agreement. Today we are simply making a declaration of the irrevocability of that accession. If anybody is under the impression that this House has never ratified Kashmir accession to India he is sadly mistaken. I want to throw some light on the background of the solitary slogan that has been raised from a corner of the House. I may ask why, in various sessions of this Assembly during which the Delhi Agreement and the instrument of Accession were brought under discussion this very Hon'ble member openly with he is opposing it today. It is, therefore, nothing but selfishness(cheers).

Sir, he has discussed these things in the capacity of a jurist. He dealt with some legal points. But with your permission, I may submit Sir, that however much he may boast of his legal profession, I too have spent the best part of my life in the same profession. By quoting certain Articles he tried to deduce the interference that our High Court was neither independent nor dependent. I think he has not understood the meaning of either the word 'independent' or the word 'dependent' (cheers). The House will recall, Sir, that the Hon'ble member draws attention to Art. 127 of the Indian Constitution, and on the basis of this Article, maintain that our High Court was neither dependent nor independent. A careful study of this Article will show that the way he has interpreted the Article is pitiable. Actually, Art. 127 of the Indian Constitution relate to the appointment of 'ad hoc' judges and has nothing to do with the powers of either the Supreme Court or the High Court. He has made these observations in a fit of

passion, and they only go to show his ignorance and lack of knowledge. So far as his reference to Art.136, 129 and 227 is concerned, I submit with great respect that the feeble way in which he made the reference (and that, too, without the support of anybody) is clear proof that he has not even studied the constitution (Application to Jammu and Kashmir) order 1950. Under that order Articles 72 (1)(c),72 (3),133,134,135,136,138,145 (1)(c)and 152 (2)have no application to our High Court or to our judiciary or to our state as a whole. He referred in the course of his speech to Art.227 and when, I studied that Article I failed to understand how he arrived at the conclusion that the Article related to High Court The Article only provides for the jurisdiction of High Courts over other subordinate courts. The object which the Hon'ble member had in view in quoting irrelevant Articles was simply to create uncertainty and mental confusion among the masses. He claims to be a lawyer, and it is in that capacity that he demands rights of secession My submission, however, is that if this is what a lawyer does indulging in irrelevant discussion, I want right of secession from this legal profession (cheers).

Sir, these were the points that my Hon'ble friend Mr Goni placed before the House. But, I have explained quoting books and documents, that so far as his reference to these Articles is concerned he has made speech merely for the sake of speech. He has made the speech not for voicing the feelings of any section of the public but to voice his own feelings and to further his own career. I would humbly request him that now that he has accepted the sovereignty of this House in regard to accession he should declare meaningless and absurd the rest of his speech also, so that the House may no longer have to suffer the mental anguish which his speech has caused.

His speech, so far as it concerns, 'Azad Kashmir' is simply aimed at placating the people of that area. It is true that, unfortunately, our country was invaded and as a result an artificial wall has been created between them and our people. This is a fact which nobody challenges. But fairness demands that he should not gloss over the fact that their citizenship rights and other special rights have been safeguarded in our Constitution. I invite the attention of my Hon' ble friend to page 2 of the report of the Fundamental Rights Committee, where we have made specific provision for those who are living in the 'Azad Kashmir' territory and who have been separated from us by an artificial wall. I shall read out a portion of the Report from page 2;

“Necessary modifications shall also have to be provided in that part to enable these subjects of the state who had migrated to Pakistan in 1947 in connection with the disturbances or in fear of the same, to return to the State under a permit for resettlement or permanent return issued under the authority of law that would be made by the State Legislature in due course”.

Not only have we made provision for their return to we have also accepted the principle that when they return to this place they shall be treated as citizens of the State. They can return to their homeland whenever they like, and they shall enjoy the same rights in the State as you and I other citizens of the State do. In addition to these specific provisions we have, in paragraph 2 of the report of the State of Jammu and Kashmir shall comprise these territories which constituted the State on 15th August, 1947 and not merely the territories which constituted the State on 15 August, 1947 and not merely the territories as at present existing. This means that this Constitution will apply to Poonch, Muzaffarabad and other areas of the 'Azad Kashmir' in the same manner as it will apply to our State. Thus it will be seen that we have fully safeguarded their rights, their

privileges and their future with sincerity and brotherly feelings; and no power on earth can deprive them of these rights.

Sir, I do not want to waste the time of the House, but I will submit one thing. It is that this House is a sovereign and representative body. We have been elected to this House to represent the people. This House, therefore, has the right to put an end to the political imbroglio which has shattered the while economic structure of this country. Our accession to India is a final and no outside conspiracy can undo it. With these words, I support this report (Cheers).....

*Kh.Ghulam Qadir Masalah: Sir, in accordance with the decisions contained in the resolution of the Constituent Assembly dated 20th October, 1953, a committee was appointed. This committee was charged with the task of submitting recommendations regarding Fundamental Rights and Basic Principles on the basis on which the future constitution for the people of the state was to be framed. The report which was presented in the House by the Hon'ble Revenue Minister, Mr Mir Qasim on behalf of the Committee has been under discussion for the last two days.

Sir, when we scan the pages of the report on the Basic Principles, we find that the basic principles have been elaborately incorporated in the report and these have been presented in a systematic order after having been thoroughly deliberated upon. Sir, so far as the issue facing the people of the state the issue of accession is concerned subversive elements and communal organizations have, on various occasions and in various garbs tried to mislead the unsophisticated people of this State by misrepresenting the issue. Although these elements failed in their mission due to the vigilance of the masses, there existed, nevertheless, considerable doubts and suspicion among the masses because the issue had not been explained the them fully and clearly. But now these doubts have been dispelled by the report which has been presented in the House by the Chairman of the Committee and which is under discussion at the moment.

I submit, Sir, that so far as our accession to India is concerned it is no new thing for us. This relation between Kashmir and India has existed for centuries as my Hon'ble friend Mian Sahib pointed out a short while ago. Our enemies are trying to pay up accession issue simply with a view to misleading the masses. In a point of fact, this issue is not a new one. It has already been decided as far back as 10 years. Today, we are simply renewing that decision (Cheers).

Sometime after Kashmir's accession to India, representative of the people of Kashmir who at that time enjoyed the leadership of Sher-i-Kashmir, S.Mohd. Abdullah went to Delhi and brought into existence what is known as the Delhi Agreement. This agreement further cemented the relationship, which had been established between India and Kashmir as a result of our accession to India. As soon as the agreement was signed our opponents as well as other communal elements whether they were in Kashmir or in India, started misrepresenting the issue. It was said that as a result of the Delhi Agreement lands distributed among the tillers would be taken away from them and handed back to their previous owners. Even if that was not done, it was rumoured that at least compensation would have to be paid to the Zamindars from whom the lands had been expropriated, in this way various methods were employed to distort the agreement. But the National Conference leadership was so firm and unbending that the enemy propaganda failed to make any impression.

Sir, this report is full of excellent recommendations. By revising the definition of term "State Subject", all these obstacles which have stood in the way of the people of this State uniting into a homogenous society have been removed. Moreover, we find that the report contains serious recommendations for providing livelihood to all classes of labour whether they resort to physical labour or to mental labour. This is really commendable and the Committee deserve congratulations on his score, further we find, Sir, that the Committee has been able to offer a remedy for that greatest of all maladies-illiteracy- which has been deprived the people

of the State of all those things that are absolutely essential for human life. The Report recommends that free education should be guaranteed. While education up to primary stage should be made compulsory for children. This means that the time is not far off when illiteracy and ignorance which have been the cause of our weakness will be banished from this land. We know that hitherto the female population of this State did not enjoy any status in our society. But now they too are being guaranteed equal share in the nation-building activities. There is, however, one thing which is sadly missing but, which, I feel, ought to be in the report namely, a condition should have been laid down that a man shall not contract more than one marriage (Laughter). It has been noticed that there are many persons in our society who in spite of their being married and having children are planning still more marriages. This attitude on the part of men is an injustice to women.

Sir, if I were to scan the report from beginning to end I should require a lot of time which I do not have. With regard to Land Reforms a guarantee had been provided that the recipients of holdings under the Land Reforms will not have to pay any compensation, and even in the case of future transfers of land or immovable property, payment of compensation will not be demanded. This guarantee is a fitting answer to our opponents and it has added to their anxieties will go on increasing.

Then we find in the report that the great cause of untouchability that unfortunately exists in our state has been done away with. Law has now prohibited practicing of untouchability. Religious freedom has been guaranteed by law to every person.

Sir, the most important thing about this report is the fact that the territories of our state have been declared to be the same as those that continued the state on 15th August, 1947. Besides, Para 8 of the report on Basic Principles reads:

“The State Legislative Assembly will be composed of members chosen by direct election who will represent constituencies determined by Law. The determination of constituencies will be on population basis and on the

scale of one member for every 40,000 of the population. Election to the State Legislative Assembly shall be on the basis of adult franchise, that is to say, every male or female who has attained the age of 18 years and is not otherwise disqualified under the constitution or any Law made by the State Legislative Assembly on the grounds of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall have the right to vote”.

If you study it closely, you will note that this right has been conferred on every person irrespective of cast and religion. It has, therefore, taken the wind out of the sails of communal elements who can now no longer deceive the people. In fact they cannot even face the people now.

Sir, in view of the limited time at my disposal I want make my speech as brief as possible. I want to make only two more submissions about the Report. One is about the demand put forward by Mr.Kotwal that the constitution should provide for right to work. I agree with him, but right to work has such a wide implication that our country is not yet prepared for it . Such a right can only be conferred when conditions are favorable. At present we are not advanced enough to be able to exercise this right properly. Had our people been advanced enough to exercise these rights. The case of the laborer who was run over by a lorry would not have been suppressed in City Thana, Jammu, but on the contrary, compensation would have been paid to the descendents of the deceased and proper action taken against the accused.

Sir, another thing to which I would like to draw the attention of the House is that the demand for right of secession put forth by Mr.Goni in connection with accession is not only advisable but unnecessary as well. To incorporate right of secession in these documents will be ridiculous similarly. right of recall will not serve any useful purpose. In this connection, I would invite his attention to Art.19 of New Kashmir.

“ The highest legislature of the state, the national Assembly, is elected by citizens of the state by electoral districts on the basis of one deputy per 40,000 population, for a period of five years”.

Since this point has been explained in this Report, it is clear that the Report has been based on New Kashmir.

Sir, regarding the Supreme Court, my Hon'ble friend maintained that jurisdiction of the Supreme Court should be extended to this state. But for his information I may explain to him what the functions of the Supreme Court are. When a person is sentenced to death by High Court, he can appeal against his death sentence to the Supreme Court. I do not see anything wrong in that. When a person is awarded some punishment, he is giving the right to seek redress in a court of law. Should this right be denied to him? If someone has been awarded death sentence he must be given every opportunity to seek justice. If there were a higher court than the Supreme Court of India, I think he should be given the right to approach even that court.

Besides, extension of the jurisdiction of Supreme Court to our State will enhance the prestige of the Courts of this place. When people see that the Supreme up-holds with the decisions of our courts, the reputation and prestige of the letter will naturally increase. My hon'ble friend Goni has expressed the view that application of the Supreme Court's jurisdiction to this State will result in the lowering of the prestige of judges and court of our State. He also alleged that a judge had been suspended at the instigation of one man. This is not true. I may submit that any citizen of the State, not to speak of a Member, must have the right to protest against breach of law wherever it occurs. But if a criminal has been convicted the Government is quite justified in doing so.

Sir, I have said whatever I had to say about the Reports. It only remains for me to congratulate the members of these committees forming the Reports.

With these words, I support the Report.

Mr. President: The clock has struck one, and with this the business for today comes to an end. Discussion on the Reports will be resumed at 11 O'clock tomorrow.

☛ Note:- The House then adjourned till Saturday, the 5th February, 1954.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

FEBRUARY, 1954 SESSION

Saturday, the 6th February 1954/ 25th Magha, 2010

The Constituent Assembly met in the Assembly Chamber Grey Hall, Jammu at Eleven of the O' clock.

Mr. President:- (Kh. G.M.Sadiq) in the Chair;

Mr. President:- Before the discussion on the Report in continued, I would like those technical amendments to be moved that have been proposed regarding the Reports.

Mr. President: Mr. Saraf;

Mr. S.L.Saraf: Sir, I beg to move the following: -

The following may be added at the end of Para 3 relating to languages, namely: -

“as also the official language of the Union for the purpose of the Union or the proceedings of the Supreme Court for communication between the union and the State, or States inter se”.

Sir, one thing that has escaped attention in these Reports was the position to be enjoyed by the recognized languages of India. The Indian union has recognized English and Hindi as its official languages while we have given this status to Urdu. Hence my amendment.

Mr. Ghulam Mohammad Mir Rajpori: I support the amendment moved by Mr. Saraf.

Mr. Mir Qasim: Sir, the amendment being of a technical nature is acceptable to me.

Mr. President: Next amendment.

Mr. Assadullah Mir: Speaker, Sir, I beg to move that in clause (10)-----

Mr. President; for the information of the Hon'ble Members may say that it is not a session of the Legislature.

Mr. Assadullah Mir:- Hon'ble President, Sir I beg to move that:-

“In clause 10 (ii) at page 6 of the Report for the words, and imposing restrictions on citizens other than permanent residents for settling within the State, the words, “or as respects settlement in the State and imposing restrictions on citizens other than permanent residents for any of the aforesaid purpose, shall be substituted”.

Sir, the purpose of this amendment is that where as this House has the right to allow special privileges in the form of fundamental Rights to the permanent residents of the State in respect of acquisition of property and employment, it also has the power to impose restrictions on the outsiders acquiring these rights. Hence this amendments.

Major Piar Singh; Sir, I support this amending motion

Mr. Mir Qasim:- The amendment being of a mere technical nature is acceptable to me.

Mr. President: Mr, Bhagat Ram Sharma.

Mr. Bhagat Ram Sharma: Mr. President, Sir, I beg to move;-

“ In clause 11 of the Report for the words, “ besides the State High Court” shall be added at the end”. Sir, fundamental rights for citizens have been formulated in this Report. The Indian Constitution, like all other constitutions, has a chapter on fundamental rights. If anybody in India feels that he has been deprived of his fundamental rights he can directly submit a petition to the Supreme Court. Art.32 of the Indian Constitution empowers the local High Courts also to enforce these rights. According to this Report such powers have been vested in the Supreme Court and our own State High Court enjoys no such powers. It is, therefore, that I have moved this amendment to the effect that such powers should not be vested in the Supreme Court alone but in the State High Court too. No citizen will have to knock at the doors of

the Supreme Court for the interpretation of the fundamental Rights. According to this amendment, if he likes he can file a petition with the High Court in place of Supreme Court. Nothing will prevent him from doing this; I will like to remove one more misunderstanding. If any body is not satisfied with the decision of the High Court he can still approach the Supreme Court. This provision is being made for the benefit of the citizens. I hope that the Chairman of the Committee will accept my amendment.

Mr. Gh.Mohi-ud-Din Hamdani: Sir, I support the amendment.

Mr. Abdul Ghani Goni:- Before the Chairman expresses his opinion regarding the matter it should be explained that if one party goes to the Supreme Court and other to the High Court which decision in the matter is going to prevail.

Mr. Bhagat Ram Sharma:- Sir, my learned friend is a lawyer and is still labouring under misapprehension. Whenever any dispute regarding the fundamental rights arises, the State is always one party and only the other is citizen. The question of two citizens does not arise.

Mr. Abdul Gani Goni : Is not a State a party?

Voices: Yes.....

S. Harbans Singh Azad : But it cannot sue anybody.

Mr. Bhagat Ram Sharma: It is an admitted fact that the State is responsible for the protection of the fundamental rights of the citizens. The State never feel a necessity to approach a court in order to enforce those rights. It is the citizen who approaches the Supreme Court or the High Court for the protection of his rights. The State is regarded as the other party.

Mr. Mir Qasim: Sir, The Indian Constitution also contains the proposed provision. The Mover has thrown ample light on the subject and I have no objection in accepting the amendment.

Mr. President: Now the discussion will be continued on the report together will the amendments that have been adopted.

Smt. Isher Devi Maini : Mr. President, the Report of the Fundamental Rights and the Basic Principles Committee have been under discussion in the House for the last three days and many members have thrown light on these and supported them , I , too, would like to say a few words in their support . These

reporters clearly demonstrate the world that the people of Kashmir mean to give a particle shape to the ideals (cheers) it is always the heroic people who act up to their principles and our heroes too have maintained these high traditions for this I congratulate them. The national Conference fought for freedom for twenty years and now is the time that the world should know that they have lived up their principles. They are implanting their pledges and programmers through this House. It was the object the National Conference to put an end to the autocracy and now it is and accomplished fact. When the national Conference decided to convene this Assembly they were opposed by some people who's striving ultimately, were doomed to failure. The National Conference emerged victorious.

Two women, like the Goddess Durga, fought for the National Conference and defeated its enemies. The ideals of the National Conference are being given the form of basic law by the present Reports. Our ideals and principles are similar to those of Mahatma Ji and India For the same reasons our problem can find a solution In India and not in Pakistan. It is obvious that these Reports concede to all communities, their rights. Everybody will enjoy his rights and will have every opportunity to make progress. Facilities for education will be there and proportional representation in the services will be ensured. The report makes no discrimination on the basis of birth, creed, or place. Under the new dispensation it will not be the scions of the rich alone who will get all the opportunities of progress, while young men of poor parentage will have to do nothing except engage the manual labour. The set-up visualized in the reports affords enough opportunities even for a poor boy to come and occupy the highest position in the state. The Reports also contain recommendations for the abolition of untouchability. My heart longs for the day when I shell see a Harijan installed into a Ministerial chair. The Reports grant Harijans all those rights which others enjoy. Equal rights for the fair sex is yet another feature of these Reports. I think advancement on these lines will make it possible for women to occupy all the 75 seats in this House and I wish such a time come soon. Likewise, I think a time will come when women will be the rulers of the country. I venture to claim to have paved the way for such an eventuality. I have removed the thorns and hurdles

from this path. I have been maligned and persecuted but I assure you that advancement of the weaker sex will always be dear to my heart. I would like to appeal to the Government to take a special interest in the advancement of the women folk. I would also request the Drafting Committee to make such provisions in the Constitution as will uphold the honour and dignity of the women folk. We know that in these times men marry two or even three wives at a time with the result that some of these are left unattended and uncared for. They are reduced to a state of beggary. In this way women are being subjected to indignity and dishonor.

I have been off and on telling you that my husband always kept me happy. I pledged to him that I would spend my life in the service and uplift of the poor. It was a promise for the dedication of my life for the cause of the afflicted and miserable. My husband suffered a lot but did not interfere in my work in any way. Everybody has respect for him. I respect him immensely. My submission is that a man must have a right to marry one woman only. If anybody cannot have any children by his wife, he should of course, with the permission of his wife and after safeguarding her rights, marry a second wife. In case the mother of his first children is left to wander from door to door, the man deserves the severest punishment.

One more aspect of the Report is that these guarantee complete freedom of press and platform. According to these Reports every inhabitant of the State can express his opinion and ideas before the people. But we must take caution and make laws to prevent the communalists from disrupting our amity and concord.

The Maharaja's regime had passed a law regarding the definition of State Subjects and now all the various categories of State Subjects have been abolished and replaced by a single category. Ten years continuous residence in the State is a condition precedent for anybody being recognized as a State Subject. The people who own several bungalows or lacs worth of lands and have been Residing in the state for a period of 10 years have been regarded as state subjects but nothing has been done for the people who have been serving the

State for a period of 30 years or have been engaged in trade or other vocations for more than 10 years. My submission to the Government is that justice should be meted out to them.

Only till yesterday Sheikh Sahib was amongst us. He was our leader, but then he got enmeshed into the imperialists noose. He became a victim to his greed. The imperialists had promised him that they would make him the Sultan of Kashmir. Thus the prospect of a life of luxury and wealth had been dangled before him. Due to avarices and greed he gave up the politics of the National Conference.

It is sad indeed that a leader of his eminence should have fallen so low as to fall a victim to foreign intrigues. Who should now rely on him? He did not try to save our sinking ship. I say it firmly and in due course of time, he himself will realize it that he followed the wrong path. I draw the attention of both Pakistan and America to the fact that Pakistan is our neighbor and Prime Minister of India is the elder brother of the Pakistan prime Minister. My sincere desire is that they should sit round a table and evolve some compromise. If they play into the hands of the imperialist powers, they are sure to face the same consequences as were faced by Sheikh Mohammad Abdullah.

Mr. Goni addressed the House on the day before yesterday and tried to build a house of cards by his arguments. He opposed vehemently the recommendations contained in the two Reports. He spoke against the National Conference as well as against this Assembly. Strangely enough he admitted yesterday that this Assembly was a sovereign body. He should know that the decision of this Assembly are binding and unalterable. I conclude my speech with these words and support the Reports. In the end, I would like to warn Mr. Goni that he should try to save himself from the whirlpool into which he has already sunk up to the neck.

Maulvi Moh'd Anwar Shah Masoodi: Sir, it is there days since the Reports of the Basic Principles and Fundamental Rights and Citizenship Committees have been presented. I would not like to take much time of the House and dilate upon the principles and rules under which these Reports have been compiled. The House is already aware of the principles that form the basis of these Reports; these are known to the outside world too by now. The guiding spirit underlying

these Reports is that every inhabitant of the country should be able to make progress irrespective of any distinctions of caste, creed or color. The purpose is that the Constitution should be framed and passed in such a form that it protects the rights of all the citizens. I think it has been discussed thoroughly and even some objections have also been raised. So far as the question of supporting these Reports is concerned, I hardly need to go into details. I would particularly, like to make a few submissions regarding the objections raised in the House. If we leave this aspect untouched, it will detract from the value of our achievements. The work we are doing here I believe, is being done according to our honest convictions. We want to create a future of comfort and happiness for ourselves so that the world does not find fault with our work but makes our achievements as its guiding star. It is a patent fact of observation that where there is a flower there is also a thorn and Kashmir is no exception to it. We pray to God that he should make us treat the right path.

So far as the objections are concerned, the biggest of them pertains to the question of accession. Sir, through this House I want to declare it to the whole world that we are not acceding to India because of any greed or force or compulsion. We take this step because of facts and our principles. It is not I alone but the whole world and particularly those people who know history, and certainly every adult inhabitant of our State, is more or less conversant with the developments that have taken place since the inception of the Kashmir freedom movement and during the last several years. Today, if the question of our accession to one or two countries i.e. India and Pakistan is posed before us. I would, on the basis of irrefutable fact refuse accession to Pakistan. Pakistan even now is actuated by imperialistic motives. Some people may today dub our policies as motivated by selfish interest but nothing will be more incorrect. The facts of history are there for all to see. Of course, it is a fact that Pakistan existed in imagination only when our movement was born but then it had no practical existence. India was an undivided country and only a few people thought its division would be a reality before long. If any political party counted it was the popular dynamic organization of the Indian people- the All India National

Congress. As there is a thorn with every flower, so have we small groups of selfish people among us trying to advance their own vested interests. Sometimes they bring in religion and at another a regional dispute while yet at another they foment trouble on the language question. They run their own political shows but they meet the same doom which is the fate of all those small worms on the advent of the spring which live on this earth. To me these people are no better than early worms. If there was any organization that struggled for the emancipation of the country from the imperialist bondage, it was the All India National Congress. As I have already submitted, there were very few people at the time who thought that the establishment of Pakistan was a possibility. During this period Mr. Mohammad Ali Jinnah himself remained as congress President for sometime.

Voices: He was not President but Secretary.

It was under such circumstances that a political organization with the object of attaining freedom for the people of Kashmir came into being. In India, there was already such an organization struggling for the country's freedom. It is quite a different matter as to what was the initial character of our organization. But that is a matter of common knowledge. The movement, in fact was started by the people of one community only and there were exclusively Muslims in its fold. Many people from the outside world were observing those events with keen interest. Support was accorded to our movement from different quarters. It was not always that such support had behind it purely altruistic motives; every element viewed the situation from its own angle. At this time a Committee was formed at Lahore in the Punjab. The Committee was called the Kashmir Committee. The late Sir Mohammad Iqbal was its President. At this very time with the active support of the British a new party was set up with the purpose of harming the cause of the biggest organization acted as the agency of the British and its purpose was no other than weakening of the Congress. The most influential leader of this organization was Mir Bahir-ud-din Ahmed who was elected as Secretary of the Kashmir Committee. But Kashmiris were not taken in by this game. They knew that to accept aid from this Committee would

jeopardize their freedom of action and they would be reduced to the state of helpless tools in the hands of the Kashmir Committee. As Muslims, they would have to barter their freedom for a life of bondage and slavery. It is because of these considerations that such aid had to be refused. Every intelligent observer knew that Mirza Ghulam Ahmed, his progeny and his followers had very cleverly set up an organization under the protection and tutelage of the British. All the expenses of the Qadiani Mission were borne by them. The English were in great need of such an organization and they had sent a psychologist to India to study the situation. They knew that Muslims were the only community who were hostile to them. They had to be diverted on such a path which would ensure religious squabbles thus averting the danger to their domination from the united averting the danger to their domination from the united people resistance. The British wanted to prevent people from aspiring for freedom. They knew that otherwise their domination over India would end. I am not going to dwell on the point whether they succeeded in going to Endeavor or not. What I am concerned is that the Kashmiri Muslims realized that this new organization was a big hurdle in the way of India's freedom and they feared that its influence might at any time spread in Kashmir itself. They thought that at such a stage the situation would be well out of control. Such consideration made us reject the aid offered to us from these quarters. The hidden hand of the British could be detected even at that early stage of our freedom movement. Even today we have a glaring proof of British machinations before us. The English continue to man the bureaucracy and the superior army services of our neighbor which is interested in acquiring Kashmir for them in view of its geographical position. In all humility I would like to submit that we are intelligent people and still we are heading towards a catastrophe. There are definite dictations in the Holy Quran for Muslims that they should not tread the path of ruin and annihilation. Annihilation is of various kinds and the worst type of annihilation is betraying one's own country. Every person who is inimical to society has been repeatedly directed to refrain from the path of annihilation. The doom that awaits a person who leads a whole country towards annihilation is not difficult to imagine. I am reminded of an Arabic verse:-

When a crow becomes the leader of a nation he is sure to lead it to annihilation.

When someone is prompted by selfish ends, his individual action may destroy a whole group. It is our honest duty to fight to the last, to the bitter end but never allow the collective cause and interest to be put in jeopardy. So foreseeing the future dangerous we conclude that Kashmir Committee would become a means of enslavement for us and our progeny. Every person who wants to remain free, to live in an atmosphere of freedom and achieve benefits of freedom for himself and his progeny will never embark upon such an enterprise which is likely to endanger the safety of his country. Any nation aspiring to lead the world will not venture to take such a risk. At that time the services of the Kashmir Committee were declined despite the fact that Mufti Mohammad Sadiq was included in their delegation. The people went to London and constructed mosques there. We knew the reason for it. If there was real need for mosques in London, why did the English use their armies and guns against the Muslims, when the later were advancing against Christianity, why did not the English invite them at that time to build mosques in England? They should have given us their faith after the revelation of Quran says God is eternal He baguettes not, neither is he begotten and there is not any one like unto Him. But the Christians continued to ring their Church bells and affirm that Christ is the Son of God, that there is the Holy Spirit. They thought that with the advent of Islam not only would their religion suffer but also even their political power would be destroyed. The spurned Islam and did not want to adopt it. They did not like to prefer Islam over Christianity. How have they more grown fond of Islam? Obviously, their interest is prompted by some political considerations. The Qaidiani Movement was founded to fight the Indian National Congress. Mosques were built in London for same purpose. The Kashmiris, however, were in quest of a correct lead free from all imperialist taint. It is our conviction that the good of the country lies in the complete freedom from imperialist domination and in considering over own gain and loss. We turned our face from these imperialist agents and refused to have any union of hearts with them. Their ways and means did not appeal to us and

were not beneficial even. The Kashmir people experienced all this. If we are carried away by religious slogans and go astray we will have to suffer heavily in consequence. Our religion, our nationhood, our honour and our property, everything will be jeopardy. It is only the free people who enjoy their religion, nationhood and honour. I do not think the slave has any master. We know the saying, "People adopt their religion after the religion of their kings" The religion that is adhered to by the people in power has its influence upon the people in general.

I think it is not out of place here to make mention of Mr. Jinnah's visit to Kashmir. He met Sheikh Sahib and a number of responsible people over here. He was a man of high caliber and great political acumen and as such deserved the respect of everybody. Kashmir is known for its hospitality and here he was honoured duly. Not only Muslims but Hindus and Sikhs too participated whole heartedly in his reception. He came to Kashmir on a mission and tried for its success. I would like to submit humbly that we rejected his ideology. The people of Kashmir refused to follow him because they knew that his ideology was fraught with great dangers. They adopted a different course. We knew that India had secular Government and that people of every creed were safe there. The structure that we are building is based on a separate law. The basic principle of this law is before us. It is a firm foundation for our new structure. The atmosphere prevailing in India is perfectly in harmony with our ideals and that made us to opt for India. The consequences that will flow from this relationship are clear to all. If something has a good beginning, its good end is almost ensured. It is wrong to say that we are acceding to India because of any pressure or temptation. I deem it proper to refer again to a few objections even at the cost of taking the precious time of the House. To the best of my ability I will try not to injure the sentiments of anybody because I do not like to be done to me should unto be done unto others as well. However, it is my painful duty to state the facts. It has been said that the Reports under our consideration for the last three days are not consistent with principles of New Kashmir. I have studied New Kashmir and these Reports minutely but I could not discern any inconsistent between the two. Of course, New Kashmir lacked in many respects the deficiency has been made up in the draft Reports. Certain omissions had been made by its authors in New Kashmir but the present Reports have removed those lacuna. There is no doubt that the present Reports fully answer the demands of the times. The objection that these Reports are against the principles of New Kashmir does not hold any water. It really gave one a great surprise to hear that these Reports reflected imperialist intentions. I think the Hon'ble Member is either ignorant of the meaning of imperialism or is unable to convey his own mind. He has spoken under the

spell of a particular sentiment and has completely ignored the facts. It has been said that we are ceding our everything to India but I do not agree with such an allegation. Negotiations and correspondence between the Indian and the Kashmir Governments have been continued since 1947 in order to decide the question of accession. Our respected leaders came to Srinagar and arrived at certain decisions, which nobody characterized as a sale-deed or a yoke of slavery.

Mr. President: I fear that it would be difficult to conclude this discussion today if the Hon'ble Member goes on speaking indefinitely. I would request him to conclude his speech in the shortest possible time.

Maulvi Mohammad Anwar Shah Masoodi:- Sir, I was just now saying that whatever we have done so far has been in accordance with a planned and agreed policy and we have tried to accommodate every genuine interest. We have not acceded over anything to India.

Sir, another objection raised in the House was that a population of eight hundred thousands are separated from us. The learned member who raised the objection knows that the population of the whole State is four million people. So far as the hilly areas are concerned, their population is not eight hundred thousands. Even if it is admitted to be a fact even then according to international law the decision of three million and two hundred thousand people should be acceptable to a minority of eight hundred thousand.

Reference has also been made to certain conference held in 1931 but it seems to be wholly imaginary. No such conference was held in 1931. It is quite contrary to the historical facts. Sir, the existence of mountain barriers has been advanced as an argument against accession to India. Kashmir is not the only country where mountain exist and Pir Panchal is not the only range but besides its Zojila and Burzala ranges also exist. Even accession to Pakistan will not help in removing these ranges. It is an untenable argument that we should not accede to India because Banihal pass presents some difficulties. We should see that mountains exist in almost every country of the world. The existence of mountains in a certain country is no justification for its enslavement by the other. The world has progressed a lot and the existence of mountains in a country is not considered a disadvantage but a real asset.

A few more objections regarding the services in military and militia have been raised. It has been said that Kashmiri youth had been given certain ranks in the military forces but degraded later. This allegation is not correct at all. Our young men have earned their ranks by dint of hard work, ability and selfless service and they are thriving in the present atmosphere. They have already served for six years and I hope they will continue to serve in future also with the same zeal and enthusiasm. They feel quite comfortable and satisfied at their posts. Perhaps my learned friend wants all avenues of progress and advancement to be closed to them.

Note: The time bell rang.

Sir, I want a few minutes more.

I have no doubt that these sentiments have been voiced on behalf of certain parties. It is extremely regrettable that we should have been treated with such talk as is considered to be deadly poison for our Country and people by all of us. I hope that my learned friend will, instead of driving us to the precipice of ruin and disaster, reconsider the issues coolly and calmly. I had to make a few more submissions but in compliance with the ruling I will only say that I have thoroughly studied the reports under our discussion for the last three days. I support these Report, and hope that they will be approved.

With these words I conclude my speech.

***Mr. Girdhari Lal Dogra:-** Sir, being a Member of the Drafting Sub-Committee of the Reports I will pass over their special features and limit my speech to the objections raised against it. The Reports are clear and comprehensive. If these had been studied carefully there would be no doubts and misgivings. However, the mental background and understanding of persons is not the same and hence certain misunderstandings are unavoidable. The one speech that was delivered against the Reports began with the mention of section 3 of the security Act. Why was it so, I do not understand. However, it seems necessary that I should briefly refer to its Sec.3 of Security Act does exist in the Statute Book but it is used sparingly. At times we have to take recourse to it when we are faced with the problem preventing mischief and maintain law and order. But when the person

concerned stops acting in such a manner he is given as much liberty as any other citizen. It has been said that the Reports are not based on New Kashmir because the structure envisaged in the Reports is not of a socialist character. One cannot take such a long Jump and if one does, one is sure to break one's teeth.

Mr. Harbans Singh Azad:- if somebody has no teeth what harm is he likely to suffer?

***Mr. Girdhari Lal Dogra:-** He will injure his mouth. So we take the prevailing circumstances into consideration and move forward step by step. As the report say we will move accordingly to the circumstances and at the proper time will certainly establish a Socialist State. It is said that India has imperialistic aspirations. It surprises me and I think this constitution at least does not smack of imperialism.

Mr. Moti Ram Baigra:- What is meant by 'at least'?

***Mr. Girdhari Lal Dorga:-** The Hon'ble member should make a little endeavor to understand that I have given ample through to the Report and I have reviewed the history of whole relationship established between Kashmir and India. How can I forget that time when both the ruler and the biggest political party of State approached the Indian Government and appealed for accession and aid. They gave us aid but told us that since we were in distress they would give us time to think over the question and that we could take a decision regarding our accession in future. The Constituent Assembly of India then kept a special article in the Indian Constitution for the State of Jammu and Kashmir. According to the Kashmir got the right to convene its own Constituent Assembly so that it could confirm or reject this relationship. Perhaps this is the picture of imperialism! Sometime after this House became a sovereign body recognized by Indian, Government and the Indian Parliament. Now the position is that this House is free to take any decision it likes. Perhaps this is imperialism! I do not think it behooves anybody to reflect on the honour and intentions of others. This is nothing but moral degradation.

On the other hand Pakistan attacked our State in 1947. Loot arson and rape took place. While our country was raided they did not have the moral courage to admit it. They denied it in the Security Council. When their forces were found on spot inside the State territory they said that they had been sent there because the people of Jammu and Kashmir were trying to divert the rivers following into Pakistan. I think what they meant by democracy is stoppage of food-grains and other eatables. The attitude of the Prime Minister of India is totally different. He says that he will abide by the decision of the Kashmiri people made by their own free will. The other side looks at Kashmir with covetous eyes. When the correspondents in Delhi asked the Pakistan Prime Minister if they could do anything for him he promptly answered that they should help him in getting Kashmir.

We have only two courses before us. So far as the question of remaining independent is concerned we have seen its consequences in 1947 and everybody knows what happened. At another time when this possibility was merely being considered such unpleasant developments took place which plunged the whole country in a state of confusion. Another course was that of accession to either of the two countries of India and Pakistan. All the Hon'ble Members agreed on the better alternative. Moreover, it has been said that we should have provided the Right of Secession because the barrier of the Pir Panchal Mountain is there. My submission is that we have there alternative before us accession to India, accession to Pakistan, and independent statehood. Whatever our choice, the barrier of the Pir Panchal will have to be faced. Does any alternative automatically remove this barrier? Of course, it has been said that if a new tunnel is bored, there would be no need for the Right of Secession. I would assure you that a new tunnel will be bored. Another objection raised in the House was, that the House did not represent the other two main political parties, the Paraja Parishad and political Conference. It was advocated that they too should be given an opportunity to express their point of view but I say we are not concerned with the point of view of a few mischief mongers. We have to see what the view point of the people is in general. Our Report is in accordance with

the wishes of the people. Those elements who's the Hon'ble members advocated like to see the country in a state of chaos and disaster. Whatever we are doing today they want to see it nullified. The idea of secession or separation is not at all reasonable. The question that is being considered in the house today has been before the country for the last several years. The National Conference has expressed its point of view a number of times and the people are satisfied with it. We are considering this issue in the light of the same and we are authorized to take a decision according to our own wishes. I am confident that no reasonable person will support this demand for separation.

Thereafter, references have been made regarding the Constitution of Burma and certain other small countries. Perhaps they have provided the right of recall but we should never lose sight of the objective social conditions obtaining in a given country. From this stand –point the best solution has been embodied in the Reports.

Regarding the question of the Supreme Court, I would like to tell the house that when during one of the past sessions, the Delhi Agreement was discussed one of the points regarding civil and criminal jurisdiction was kept aside for further study. All the Hon'ble Members agreed on the rest of the Agreement. In case of a dispute between the Centre and the State, the Supreme Court is to be approached. The same procedure is to be adopted when a dispute between the State and another Indian state occurs. The Supreme Court has the jurisdiction to decide a dispute between the State and a citizen regarding constitutional points. Cases involving a dispute for an amount of more than Rs.20,000 will be heard by the Supreme Court. Also cases in which any specific legal point is involved will go to the Supreme Court. It has been also said that the board of judicial Advisers should be allowed to continue. It is tantamount to objecting to the decision of the learned Judges of the Supreme Court. It means that one should get the services of such judges and accept their decisions as have retired from their service in India and have been considered unfit for further service. Is it at all sound suggestion? So far as the judgments of the Supreme Court are concerned, they are hailed from every quarter and are even quoted in

other big countries. In another objection it was said that Mr. R.C.Kak had snatched certain powers from the High Court and, therefore, the Supreme Court should not be given the jurisdiction to hear the appeals regarding civil and criminal cases.

Reference has been made to the absence of the Right of Recall. I would like to submit that the Reports do not embody every small detail. When the draft is presented before the House this question will be considered, but it must be done in the light of the existing situation. In the present circumstances it is not an easy problem. It is just possible that the House may reject it in the prevailing objective situation. In yet another objection it has been said that the Right of Work has found no place in the Fundamental Rights. The matter has been explained on page 7 of the Report and the Right to Work will be a fundamental right. There seems to be some confusion regarding the system meant to be built and for which purpose a plan will be put before the House. Perhaps the basis of the confusion is that this right cannot be enforced through a court. I would like to pose a question in this behalf. If there is somebody without work and starving, can he go to Supreme Court and get his grievance redressed. Is it possible? However, the Right to Work is a fundamental right and must remain such. We have to create such a structure wherein everybody gets work. Due attention will be paid to this matter. I assure the House that we intend to build such a structure in which everybody is provided with work. If any right is not enforced through a court of law it will work. If any right is not enforced through a court of law it will be done through another organ of the State i.e. the Legislature. Anything that is embodied in the Constitution has its custodian in the Legislature. The Legislature sees to it that the Constitution is being adhered to. The legislatures of the State meet twice in the year. We will see to it that the new Constitution provided for at least two sessions of the Legislature in a year. Legislature can change a Government. The Government will always keep the wishes of the House in view and act up to the provisions of the constitution. Nobody need harbour any misgivings regarding that.

Next objection has been raised to the term “incitement to an offence” occurring in the fundamental Rights. A demand for its omission has been made. These words are very essential. I would like to draw the attention of the House to the fact that to prevent an offence it is essential to prevent its abetment as well. With the words “Public Order” the words “incitement to an offence” was indispensable. For instance, abetment of kidnapping, murder and theft is a serious crime as these crimes themselves. We have to give our thought to these matters in the Legislature. If we make any provision in the Constitution it cannot be made into a law without being considered in the Legislatures. I would, therefore, say that these words must be retained in the Reports. It is necessary to provide for the prevention of day to day crimes. I would not like to take any more time of the House and conclude my submission. The Hon’ble Mover will himself answer other objections raised regarding the Report.

Mr. Ghulam Ahmed Dev:- It is for the first time in the history of the State that we are building the edifice of our programme on the foundations of secularism. In the capacity of a member of the Advisory Committee, I have been taking part in the deliberations of the Committee for the last 11/2 months continuously. The Committee has given its freest and fullest deliberations to the various aspects of the Report.

The report neither neglects the freedom of the State nor any other aspect. The programme of New Kashmir has been kept in view and the sovereignty of the people has been recognized. However, I would like to request the members of the Drafting Committee that they should put some guarantee for the Right to Work for the public Health. Since the Report concern the people in general it would not be out of place to answer the objections that have been raised in the House. A number of Hon’ble Members have replied to the objections of my learned friend. It is evident from his objections that he is deliberately opposing these Reports. He has merely vented his

dissensions and nobody can prevent him from doing so. What we have to see is whether there is any weight in his objection. His objections have been best answered by Mr. Assadullah Mir.

Mr. Goni has said that it was not correct for us to accede to India when Banihal barrier is there. I have got an answer for him. Does he know how apart are the West and East Pakistani and what intervenes between them. Does he know that there are certain places in Pakistan too, which have no easy access? The geographical conditions cannot make our accession to India impracticable. It is correct that the Banihal pass present great difficulties but are not we planning to remove them soon.

I would like to submit that it was essential to have the jurisdiction of the Supreme Court over the State. It will be for the benefit of the people when they go to the highest Court of India to get the Law interpreted. When they go to the highest Court of India to get the Law interpreted. When Mr. Goni has supported the accession of the State of India how is he opposed to the extension of the jurisdiction of the Supreme Court over the State? Give people have been given an opportunity of seeking justice in the highest court of the Country it is not a wrong but a commendable step. It will not increase but minimize the number of legal wrongs; it is the duty of every worthy citizen to honour this great court. The fact is that the higher court to which one can approach the better guarantee is it for the freedom of the people. Mr. Goni has referred to the Indian communalists. Does he not remember that even the biggest leader of the **Jan Sangh** was defeated in the election? It is correct that communalists raised great hue and cry regarding Kashmir with the aim of getting Kashmir

merged with India but the Government and the people of India did not remain passive spectators and condemned the activities of these communalists.

***Mr. Abdul Gani Goni:-** Sir, the Hon'ble Member is stating incorrect facts.

***Pt.S.L.Saraf:-** All the facts stated by him are correct.

***Mr. Ghulam Ahmed Dev:-** Sir, when Mr. Mukerji entered the State in contravention of the State Law and was arrested by the Government, the Indian Government justified their action. General Election. The Indian people once e again demonstrated their strong faith in secularism.

Any other grievance wanted by my learned friend was that some of our young men who have been promoted to higher ranks in the local army were subsequently downgraded. His allegation is not based on facts. If the local army has been taken over by the Central India Government it is because then State Government could not afford to maintain it.

My Hon'ble friend further pleaded in favour of the Right of Secession. In this behalf I would like to submit that every Government makes Laws with due regard to its social and political environment and then there is always the tight to amend the Constitution. Another demand made by him was for the Right of Recall. Our country is a target of imperialist conspiracies and the greedy eyes of these imperialists are reverted on it. In these circumstances provisions of the Right of Secession and the Right of Recall. Our country is a target of imperialist conspiracies and the greedy eyes of these imperialists are reverted on it. In these circumstances provisions of the Right of

Secession and the Right of Recall can be fraught with grave dangers. Here I would like to tell my friend that India has not taken a single step against our wishes. No attempt has been made to nominate us in any way. They are helping us to the possible extent and have promised further help in the implementation of our developmental schemes.

With these words I support the Reports.

Mr. Ghulam Nabi Lolabi:- Sir, the Reports of the Fundamental Rights and Citizenship and the basis Principle Committee are being discussed in the House for the last three days. Regarding these Reports I would say without any fear of contradiction that these represent the true desires and aspirations of people of the Country. These Reports will indeed pave the path leading to the goal of New Kashmir set before our Country by the biggest political organization of the country, the National conference. The country is sure to reach the Zenith of progress. Sir, several Hon'ble Members have dwelt on these Reports in their speeches. I would not like to say much and congratulate the member of the Committee who have prepared these Reports. I would, however, make a brief mention about the lonely voice raised against these Reports in the House. This voice though raised from a particular point seems to have its objective rather far away. Apparently it supported our accession to India and the Principles formulated in the Reports but it tried to make its way to a different end. Inevitably many a contradictions came to light. The Hon'ble Member by his tactics tried to draw the attention of the people to himself.

The learned member referring to the Banihal Pass objected to our accession to India. Obviously, he wishes us to accede to some other country but has not the honest and firm conviction to express his mind openly and clearly.

He next referred to the National Conference, an organization which has directed the freedom movement of the State for the last twenty years. The National Conference produced a leader and boosted him up. All his colleagues and co-workers rallied a round him as do the stars round the moon in the firmament. The organization waged a better struggle for the good of the Country. The people did not even hesitate to sacrifice their lives at bidding of their leader. The organization had set before itself an ideal- the plan of New Kashmir. It is following the same programme for which once our erstwhile leader Sher-i- Kashmir, stood. We have not forsaken our path or our ideals. Her has come under the influence of a vicious environment and although an Hon'ble Member, Mr. Saraf warned him of the dangers ahead he was already going on the wrong path. His Deputy, our present leader deserved our congratulations. He did not allow our ideals to be smashed and kept our flag flying. He has stood the test on numerous occasions. It was he who organized our defence during the fateful days of 1947 and undoubtedly it forms a glorious and unforgettable chapter of national history.

Note: The time bell rang.

Mr. President: The house will now adjourn for lunch and shall meet here again at 2-30 P.M.

AFTER LUNCH

Mr. Ghulam Nabi Lolabi: Sir, before the House adjourned for lunch I was referring to the upheaval of 1947 and how our leaders tided over that difficult and crucial period. We appealed to India for aid and requested her also to accept our accession. Sir we have to see whether the National Conference made this request in accordance with the wishes of the people or on its own, it was a time when the Qabaili and Pakistani raiders were rolling on like wild fire.

Sir, Mr. Goni has said in his speech that eight hundred thousand people are living across the Cease-Fire Line but I say are they there of their own free will or they are passing their days helpless under a regime of suppression and tyranny. It is not only the part of the State lying on this side of the Cease-Fire-Line that is acceding to India but the whole of the state. Because the whole state accedes to India it is here responsibility to free every inch of it from the possession of the aggressors. If India fails to do we will be justified in saying that she has not fulfilled her commitments. Sir, we have more over to see whether the House is making any provisions for the Cease-Fire-Line. The answer is clear. The Reports before us make their fundamental rights safe. The question whether we represent them or not does not at all arise.

Again it was said that there are political parties like the Praja Parishad and political Conference in the State. Certainly we do not deny their existence but is it that they have been set up now or do they exist since the time of the previous Government headed by Sher-i- Kashmir. Have not these organizations come into existence as a consequence of the policy responsible for the creation of a state of uncertainty in the country? The fact of the matter is that these

parties got strengthened because of the arbitrary policies of some of our friends. Did Sheerwani and others lay down their lives for the division of the country, for the separation of Jammu and Ladakh from Kashmir and for the creation of a separate State comprising the valley and the Bhandarwah District? Was not the Banihal Pass forgotten at that time? (Cheers).

Sir, It would take a long time if every issue raised Mr. Goni in his speech is analyzed and I think he cannot himself explain it.

Mr. Abdul Gani Goni: And you are explaining it.

***Mr. Ghulam Nabi Lolabi:-** I am doing so. Sir, since the House has much business before it. I support the Reports with these submission and appeal to the House to reject the note of Dissent.

***Bakshi Ghulam Mohammad:-** Sir, for the last four days the Respect of the Advisory Committee on basic principles and Fundamental Rights are being discussed in the house. These reports are now not only before India and Pakistan but before the whole world to see. I do not like to take much time of the house as numbers of friends have already thrown ample light on each and every issue dealt within the Reports. They have also explained the objective for which this house was convened. The Hon'ble Members have, in deference to the wishes of the people, whether of Ladakh, Kashmir, Jammu, Poonch or this or that side of the Cease-Fire- Line, prepared a constructional structure for the Stat. Certainly my Hon'ble friends have fully realized their responsibilities and have put before the country a picture of its objectives which its present and past is concerned. My responsibilities and those of my colleagues have deserted us. Our responsibilities would not be so heavy if they were

today among us. However, we are facing our tasks and work will not only affect our present but our future generations as well. We have considered and pondered over every little thing and have put before the country what we thought was right and all the while we have never forgotten our responsibilities.

At a time when all the members of the House were here were pursuing a certain line of action determined according to the policy and programme of the country. Some of our colleagues left their task unfinished but we are still following the same line of action and are advancing, on the same basis. So far as our internal autonomy is concerned, we have strengthened it to such an extent that no power on earth can snatch it from us (**Cheers**). We do not believe in wasting our time in meaningless vacillations and have placed before the country a Constitutional Structure.

Regarding our relationship with India we have considered our accession irrevocable since October, 1947. Considering this relationship in order and desirable we are again putting it before the House for confirmation. This is such a relationship as will ensure the economic and political advancement of country. It will not only strengthen India but the mutual bonds of the people of Kashmir, Jammu and Ladakh.

Much has been said here regarding our freedom movement and I would not like to dwell on it but would merely make a little submission. Our freedom Movement had set before itself a programme on the basis of which the reports of the basic principles and Fundamental Rights Committee were framed. Now it is the time when the Hon'ble Members sitting in the house can hold their heads

high, for we are today giving a legal shape to our commitments made before the country ten or fifteen years before. (**Cheers**).

We have some knowledge of big movement of a number of countries. We are also aware of the divergence between their words and deeds. On the other hand our organization presents a different picture and we have not only fulfilled our promises but have even gone beyond them. Our Reports have been based on these promises and commitments. Before I say something regarding accession, how it came about and how we are today here assembled to ratify it,, I would like to answer the objections raised by some friends in the house. My Hon'ble friend, Mr. Hamdani, said in his speech that it would have been better if Sher-i-Kashmir were today in the house and he were told that the international as well as national situation was changing and that he too should change his policy. I think his suggestion is quite nice and welcome but I would, make a few submissions in this behalf. Sheri-I-Kashmir steered the ship of our country for years together. He had definite goal and destination to reach and had undertaken to take this ship to that destination. He did direct this ship on the desired course for sometime but unfortunately the ship then caught in a whirlpool and at that critical time the captain of the ship tried to sink it. It was now not only a question of sinking of the ship alone but drowning all those too who were on board. The captain himself would not have been able to avoid that tragic fate. Would to it be a gross blunder to entrust our ship to such a captain who loses his nerve when caught in a whirlpool on a storm. Now when the ship is again sailing smoothly on its course should be again make it a plaything of the storm and still claim to be

intelligent and far-sighted. We have parted our ways and I am not happy over that as I happened to be a very close associate of his. We were facing a situation that involved the problems of the State, of India and of the whole world. In such a situation the only right course was to have no consideration for personal friendship. We saw that the good of our country, of India and Pakistan and of the whole world lay in such a course. Attempts were being made to make our State an area of intrigues and conspiracies, which foreshadowed disaster both for India and Pakistan. We chose our course precisely to avoid this disaster. We have given due thought to it and believe that what we have done leads to the good for the country.

Since 1947 we are making an experiment in order to show that the two-nation theory is incorrect. We have been counteracting it since then. At such a time if we entrust our leadership to a person who is afraid of facing a crisis we are surely heading towards a disaster. Such a step involves ruin and disaster for India as well as Pakistan.

Today, we are here in this house to fulfill those tasks, which were outlined by this House some two years before. This House has already confirmed those tasks; not only the Hon'ble Members sitting in the House but even Sheikh Sahib and Mr. Beg confirmed these. Sheikh Sahib in his speech on 11th August, 1952 said: -

"The Hon'ble Members are aware that as the Leader of the National Conference Party, I indicated in my inaugural address the scope of the decisions which I felt the Constituent Assembly would have to take. I listed the four main issues as pertaining to the main functions the main functions of the Assembly viz. the future of the Ruling Dynasty, payment of compensation for the land transferred to

cultivators under the Big Landed Estates abolition Act, Ratification of the State accession to India as well as framing of a Constitution for the State. While discussing these issues in my address to this House, I had given clear indications of my party's view in regard to them. I had also an occasion to place my point of view on these issues before the representatives of the Government of India and I had the satisfaction that they approved it."

And again while referring to the same decisions and the objectives, which are under the consideration of the House today, he said: -

"A satisfactory position has emerged and we are now to assess the basic issues of our constitutional relationship with India in clearer terms. There has been a good deal of accommodation of our respective points of view. Both, the representatives of the Government of India and Kashmir delegation, have impelled by the desire to strengthen further the existing relationship to remove all obscurity and vagueness. We are convinced, as ever before, that we have the full support both of the Government and the people of India in the fulfillment of our democratic ideals and realization of our objectives.

The Delhi Agreement had been put before the House with this preamble and policy statement and today some friends, say only one friend, is posing such questions as are far remote from real facts. These are the same questions, which have been decided by the House to years before. Regarding these Reports I think that the constitution based on them will be a really glorious constitution. Both the Committees have given ample thought to these questions and have given the country a constitution, which opens great vistas of

progress and advancement before it. While the constitution gives freedom of press and platform it also provides that anybody who feels wronged in this behalf by the Government or any Executive Authority thereof may seek justice in the highest court of the land. These matters were decided and agreed upon two years before when those of our colleagues were also among us who object to the jurisdiction of the Supreme Court today. In my opinion it is essential to have the jurisdiction of the Supreme Court over the State when we are given Fundamental rights to the people. It is essential in the interests for their proper enforcement. Without the jurisdiction of the Supreme Court the fundamental Rights lose all their force.

We have safeguarded the honour, self-respect, property, and inheritance of the people by law. These safeguards are not for the present only but shall be valid for future too. We have safeguarded the permanent residence of the people of the State and no government can amend or alter it by any law whatsoever.

As regards our land laws we have protected our tillers thereby. Our Legislature will be free to take any decision in this behalf and there will be no interference from the Centre. Those people who are raising the bogey of compensation or re-establishment of jagirdari system are merely indulging in stony-mongering and cheap slogans I say that the decisions taken by this House shall stand and cannot be altered by any power on earth.

We shall also have the fullest internal autonomy. We have fullest internal autonomy. We have stated our obligations towards India in clear and unambiguous language, honestly and straightforwardly, as had been put in the statement placed before the House by Sher-i-

Kashmir. He said that our accession to India was irrevocable and that no power on earth would break it. We want to preserve and strengthen our mutual relationship and those who intend to weaken it in reality work for the present state of uncertainty and insecurity to continue. But such state of affairs cannot be beneficial to anybody. I feel it is our duty that we should and this uncertainty and insecurity and as speedily as possible. I congratulate the Hon'ble Member of the House for this daring step. This House declares to the whole world that the future of Kashmir will be decided by the House itself and not by anybody else or the Security Council or any other institution. The decision we are taking today cannot be amended or altered.

We realize our responsibilities. We are to like those people who extend one hand for friendship and pull the leg with the other. I cannot understand the logic of these people. We are not taking any new decisions but are only repeating our old ones. We are following the same path which was chalked out by us on 5th November 1951. Unfortunately I have not the Urdu translation of policy statement with me just now and if you permit me, Sir, I will read out a few extracts from this statement. This is the opening address by Sheikh Mohammad Abdullah delivered in this House by him on 5th November, 1951. He said: -

“Finally we come to the issue which has made Kashmir an object of World interest and has brought her before the forum of the United Nations. This simple issue has become so involved that people have begun to ask themselves after and a half years of tense expectancy: ‘is there any solution?’ Our answer is in the affirmative.”

The next question that he posed in his statement was: -

“What Pakistan’s action in invading Kashmir in 1947 morally and legally correct, judged by any from of international behaviour? Sir Owen Dixon’s Verdict on this issue is perfectly plain. In unambiguous terms be declared Pakistan an aggressor”.

“Instead invader and defender have been put on the same plane. Under various grabs attempts have been made to side-track the main issues. Some times against all our ideals of life and way of living attempts to divide our territories have been made in the form of separation of our State religion wise, with ultimate plans of further disrupting its territorial integrity.”

“We have watched all this patiently; but we cannot be indifferent to the growing sufferings of our people. WE cannot Any longer tolerate being bandied about right and left with an indefinite future.”

“We therefore, thought it best to call upon our own people to declare what future they seek. At last, we in October, 1950 decided to convoke a Constituent Assembly which would pronounce upon the future affiliation of our State. We were, and are, convinced that whatever some groups or individuals in the world outside might have to say about this decision of ours there are in every country many people who have faith in justice and straightforward dealings.”

“I have no doubt that our considered views will be understood and supported by freedom-loving, peace and democratic-minded people all over the world. I am sure too that Almighty God who guards all just cases will bestow. His blessings upon us and guide our foot-steps towards correct and honest ends.”

Now hear from his own lips what that correct decision was: -

“The real character of a State is revealed in its Constitution. The Indian Constitution has set before the country the goal of secular democracy based upon justice, freedom and equality for all without distinction. This is the bedrock of modern democracy. This should meet the argument that the Muslims of Kashmir cannot have security in India where the large majority of population are Hindus. Any unnatural cleavage between religious groups is the legacy of imperialism and no modern State can afford to encourage artificial divisions if it is to achieve progress and prosperity.”

“The Indian constitution has amply and finally repudiated the concept of a religious State, which is a throwback to medievalism, by guaranteeing the equality of rights of all citizens irrespective of their religion, colour, caste and class.”

“The national movement in our State naturally gravitates towards these principles of secular democracy. The people here will never accept a principle, which seeks to favour the interests of one religion or social group against another. This affinity in political Principles, as well as in past association, must be weighed properly while deciding the future of the State.”

“We are also intimately concerned with the economic well-being of the people of this state. As I said before while referring to constitution- building, political ideals are often meaningless unless linked with economic plans. As a State, we are concerned mainly with agriculture and trade. As you know, and as I have detailed before, we have been able to put through our ‘land to the tiller’ legislation and make it a practical success. Land and all it means is an inestimable blessing to our peasants who have dragged along in servitude to the

land-lord and his allies for centuries without number. We have been able under present conditions to carry these reforms through; are we sure that in alliance with land –lord-ridden Pakistan, with so many feudal privileges intact, that this economic reforms of ours will be tolerated? We have already heard that news of our Land Reforms have traveled to the peasants of the enemy-occupied area of our state, who vainly desire a like status, and like benefits. In the second place, our economic welfare is bound up with our arts and crafts. The traditional market for these precious goods, for which we are justly known allover the world, have been centered in India. The volume of our trade, in spite of the dislocation of the last few years, shows this industry is also highly important to us. Potentially, we are rich in minerals, and in the raw material of industry: we need help to develop our resources. India being more high industrialized than Pakistan can give us equipment, technical services and material. She can help us too in marketing. Many goods also which it would not be practical for us to produce here for instance, sugar, cotton, cloth and other essential commodities can be got by us in large quantities from India. It is around the efficient supply of such basic necessities that the standard of living of the man-in-the-street depends.”

These are his own words and I am not speaking in a different language. We have not to decide the question of accession today, but have decided it six years before. Our decision in this respect is complete and final, having no legal or constitutional flaw in it. This has been our stand in the past and this is our stand now. We have assembled here in order to confirm this every stand. This was the stand taken by him while he was the Leader of the House and he put

it before the House. The House has to keep in view the whole thing and take its decision for it is authorized and privileged to take such a decision. At another place he said: -

“You are the sovereign authority in the State of Jammu and Kashmir, what you decide has the irrevocable force of law.”

Today, you are here for the same purpose. Whatever you decide will not only be acceptable to the state, but I assure you, to India as well as to Pakistan and to those political jugglers too who complicated the issue to the present limit. In this connection he gave a statement on 12th April, 1952. He was very generous in the matter of giving statement and would not issue less than a thousand in a year. In this way he should have issued some six thousand statements during the six years of this office and if take even a single minute for a statement I would require six thousand minutes for the task. So, I would briefly quote this statement: -

“Sheikh Abdullah said tonight that the decision of the people of Kashmir to accede to India was irrevocable. ‘Under no circumstances would Kashmir lower the Gandhian flag of secular democracy.’

Regarding Pakistan he said: -

“In Pakistan, for instance, communalism was being openly encouraged and every opportunity taken to exploit it in Kashmir. In India the Nehru Government was determined to put down communalism in every shape and form, Kashmir, which four years ago spontaneously threw its lot with India and identified itself with the secular character of that country could strengthen its bonds only if she reacted prudently and took the realities of the situation into consideration.”

These were his observations made in April, 1952.

Now hear what another Hon'ble Colleague who is not among us here today had to say about it. I would request you to think over the reasonableness of the arguments and the justification offered for the stand that had been taken. I am quoting from the statement of Mr. Beg published in the Hindustan times of 17th April, 1952. The statement also appeared of the Statement: -

“If Kashmir had gone to Pakistan the voice of ‘New Kashmir’ would have been struggled. Kashmir today represents not a mere territory of natural beauty. She represents a progressive movement, which is directed for the common people’s good. If Kashmir had acceded to Pakistan, this great movement would have received a set back for all time to come. The soul of Kashmir would have been crushed. The garden of Shalimar in Srinagar might have continued to bloom as before but Pakistan would have crushed our progressive revolution and undone the very thing that Sheikh Abdullah and National Conference have done since 1931.”

He said further: -

“The dispute between India and Pakistan on the question of Kashmir was not one over territory. The National Conference had always looked on it as a conflict between two ideologies-the progressive ideology of India and the reactionary forces of Pakistan, where even today the Government is in the hands of selfish landlords and jagirdars whose sole aim is to exploit the common people. In 1931 Sheikh Abdullah lit the torch of progress and awakening in Kashmir. If, instead of India, we had joined Pakistan, that torch would have met the same fate as torch of Khan Abdul Gaffar Khan. Pakistan would

have snuffed out that touch. On the other hand, that very torch today shines forthwith added brilliance because of Kashmir's accession to India."

I had placed before you these two statements and some question. These words are not from the lips of my friends, Mr.Dogra, Mr.Saraf or Mr. Mir Qasim, but these are the utterances of these friends who, unfortunately, are not among us today and who, when faced with a crises, chose the path of ruin and disaster. If we had not taken the initiative, there would be no talk of India or Pakistan today but someone else would be controlling the show here. We would not be here. I would request you to take these very statements into consideration and give your verdict. My friend, Mir Qasim also has to answer a few points and I thought it fit to place those principles before the House upon which this structure has been erected. One of my friends in the house has asked us not to ratify our decision but does not he know that it has been ratified long ago. We are only repeating our ratification and are in a way fulfilling a formality. We have ratified it as early as 1947 and at every step thereafter in this House and the whole world is aware of it.

It has been said in the House that eight hundred thousand people are separated from us. No doubt their representatives are not among us today and I feel deeply pained at this fact. But have not we time and again asked them to cross over to this side? We have reserved seats for their representatives. We have conveyed our intensions to them through Radio broadcasts, press and pamphlets. Unfortunately they are living in such an atmosphere that they are not in a position to cross over to this side. Their plight is very bad indeed, they are virtual

prisoners. But does this mean that the fate of three million people should be kept in abeyance so long as these eight hundred thousand people (a considerable portion of our population, I admit) are not among us. Where we should not ignore eight hundred thousand people, should not we pay due consideration to the remaining three million people. I will put before you what Sheikh Sahib had to say about them two years ago: -

“Remaining them that they continue to suffer under the feudal yoke and that they longed to return to ‘your ancestral homes and be rehabilitated in your own areas.’ Sheikh Sahib said,” It is the Pakistan Government and its agents who are suffering in your way. The only possible way to put an end to your standing is that you should create such conditions in Muzaffarabad, Chikar, Mirpur, Kotli and Palundri as would enable displaced Hindus and Sikhs of these areas to resettle there and live freely and happily in their own ancestral homes. You will then clear the way for your own return and resettle in your ancestral homes.”

We have not forgotten those people and whatever we are doing today is for their good too. Their aims and aspirations are our aims and aspirations also. I assure my friends here that for us Jammu. Bhade5rwah or Srinagar is no more sacred than any part of the so called Azad Area. Their troubles are as much my concern as the troubles of my own near and dear ones but we are helpless and cannot postpone our decision. Even if their representatives were here, their number would not exceed twenty and adding this number to the present strength of the House the total number of the members could be ninety- five. The five members who are not unfortunately

among us today if counted with them would raise the group to twenty-five. Although I believe that all of them would agree with us today, their solid opposition even would not overrule the decision of seventy members. The decision of the majority will come to stay. Judging from this point of view too it is not correct to postpone the present decision. I would reaffirm their declaration and pray to God that the same objectives and intention may lead us today as lead them to say these words at that time: -

“Today is a day fulfillment for all-a day when we finally and triumphantly assert our right to decide our own future, from threats of force and outside dictation.”

This day is a day of jubilation and festivity for us. Today, we can hold our heads high because we see our dreams and aspirations being realized now. Our dreams often or twenty years ago are reality now. The constitution we are preparing today will bring about all- round progress for every citizen of the State in the economic, cultural and political spheres. The very basis of the constitution is that we should raise the economic condition of the country and if the country advances we are sure to consolidate our political power. This is the basis and the objective of our constitution. We have repeated it again that we do not aspire for more. Our aims are like those of the Mahatma viz. that every body living in the country should get a roof over his head, enough cloth to clothe himself and two square meals a day. I am confident that God willing our ideal will be realized every soon and we will implement our programme. It will also be seen that the right to work will also be included in the constitution before long. Supporting these reports I would once again request the House to

support them not because I plead for it but because of the very principles that form their basis.

Mr. Abdul Gani Goni: - Sir, with reference to section 34 of Rules of Business and Procedure, I would like to submit that I should be allowed to speak something about my note of dissent submitted by me regarding the debate continuing for the last three days.

Hon'ble President: Is the Hon'ble Member referring to Rule 34?

Mr. Abdul Gani Goni: Yes.

Hon'ble President: It means you are moving for closure.

Mr. Abdul Gani Goni : Yes, Sir.

Hon'ble President: It is acceptable to me.

Mr. Abdul Gani Goni: Sir, I would like to know if I am allowed to say something about my Note of Dissent.

Mr. Assadullah Mir: I think the Hon'ble Member has not understood the rule.

Hon'ble President: So far as the Hon'ble Member has expressed his intension to move for closure I, in accordance with the Rules agree with him. The Hon'ble Member will now have to face the consequences thereof.

***Mr. Mir Qasim:** Sir, the reports of the Basic Principles and the Fundamental Rights and Citizenship Committees are being discussed in the House for the last three days. I do not think there is any need for further explanation after the speech of the Hon'ble Leader of the House made in support of these reports. I think it proper to thank Bakshi Sahib and all those Hon'ble Member who have commended these Reports. I am now convinced that due vigilance was exercised while formulating the principles embodied in the Reports. It is evident

that the Constitution based on these principles will completely answer the demands of the people of the State. I believe this will be a glorious constitution and the country will be greatly benefited by it.

On this occasion, I deem it my duty to thank the Constitutional Adviser, the Joint Secretary of the Assembly and other members of the Staff of the Constitutional Branch who worked tirelessly to prepare these reports.

I think it is an auspicious occasion when the aspirations of our nation have been given a constitutional shape. The two reports may be divided into two parts- the first part confirms our decision to accede to the Indian Union and specifies the responsibilities developing upon it as a consequence and defines the jurisdiction of the Centre to discharge them. Evidently, when the decision of the State's accession to India is taken, it becomes necessary to define the jurisdiction of the Indian Union regarding matters handed over to the Centre in order to enable them to discharge their responsibilities fully. Besides, it was needed with a view to bring about complete solidarity between the State and the Indian Union. The second part specifies the jurisdiction of the State. These specifications were necessary. Now people interested in creating misunderstandings will dub it a new step but I would like to submit that when we have acceded to India, it is essential to define the jurisdiction of the Centre with respect to the matters concerning the State. It is by no means a new step and is perfectly in accordance with the steps taken by us in the past when our erstwhile colleagues were with us to whom Hon'ble Bakshi Sahib has already referred. Those colleagues are not among us today and have lagged behind because they could not keep pace on the road to

our destination. From the accession of our State with the Indian union automatically flows the relationship that the State's people too should enjoy the Supreme Court. It is also our intension the people of the State should be confronted with no difficulties in implementing their economic programme. If and when a citizen of any part of India enters the State he should feel that the State also forms a part and parcel of India and is not a separate entity apart from it. The State being a constituent part of the Indian Union it becomes incumbent on every citizen of India visiting the State to help in the economic as well as political field. He should never think that he is helping some outsider. So it was inevitable that we should recognize these principles and also the citizenship rights in order to remove the fear of all these people who regard the State something separate from the rest of India.

The people of the State remained backward due to the enslavement by the British imperialism, which perpetuated the feudal system. This required making such laws as would enable the people of the State to march side by side with the other people of India in economic and political fields without being exploited. In order to save the poor people of the State from being exploited by any capitalists from India we had to maintain the definition of a State Subject in the State. This will act as a check to those rich people who would otherwise come to Kashmir and exploit the poverty and hunger of the people. To keep this distinction of the State Subject and Non- State Subjects is recognition of the fact that our people are backward and should not, therefore, become the victims of capitalism. While making provisions for special privileges in the Constitution we had to see to it that it is

not inconsistent with the India Constitution. There are certain privileges for some section of the Indian people kept backward by the British Imperialism in the India Constitution. Likewise, We have protected the rights of the poor and Backward people of our State by preserving the special privileges of the State Subjects so that they are not exploited by any exploiter whatsoever. While we are preserving the privileges of the State Subjects the mischief-mongers are attempting to excite the people by their false propaganda. Sometimes it is said that the protection of the permanent residents of the State separates it from India, which is incorrect. India Constitution provides for such protection. We have made these provisions so that nobody is given a free hand to exploit our people. This exposes the hollowness of the Pakistan propaganda. The baseless propaganda of Pakistan is aimed at making the people believe that India is conspiring to reverse the communal ratio of the state's population. I declare if here that there is absolutely no truth in this charge. There is no communal tug-of War going on in Kashmir, neither is there any questioned Hindus and Muslims, which may result in disturbing the present religious balance. Indeed we are striving for economic progress and, in order to achieve this purpose, we are trying to compete with other countries. On the contrary it is only possible in Pakistan that plots for disturbing religious balance be hatched. I do not know whether they call such plots as Muslim plots or not but it is certain that no religion considers it good to do so. Islam especially, abhors plots and plotters. There is no religious dispute here and neither is any attempt being made to disturb the religious balance. Even there are no such elements as are interested in these things. I

am happy that Hon'ble Members have adopted then correct principles and have removed the unnecessary distinctions between India and Kashmir by formulating the fundamental and Citizenship Rights and thus recognized the principles of loving together with India. It is only one friend who has objected to certain things. Although a number of the Hon'ble Members have already answered him, still think it my duty in the capacity of the Mover of both these Reports to answer these objections.

The first objection raised by my learned friend is that while we accede to India we should reserve the right to secede. He next objects to the jurisdiction of the Supreme Court and Advocates the establishment of a Judicial Advisers Board. In support of his demand for the right of Secession he has referred to the stand taken by Sheikh Mohammad Abdullah, the Political Conference and the various other organizations. Sir, the name of Sheikh Mohammad Abdullah is no justification for the Right of Secession because for twenty-one years he followed the same path as well as still following. He3 adheres to these principles and then at a certain stage went astray. In order to revive your memory Hon'ble Bakshi Sahib read out extracts from the various statements of Sheikh Mohammad Abdullah, particularly from one read out in this House on 5th November, 1951. The objects of quoting these statements were to show to the house that he abided by those principles for a long time but then his strength failed. Otherwise, we did not at all need the support of Sheikh Mohammad Abdullah, the political conference or any other political party. The Leader of the House made it clear that Sheikh Mohammad Abdullah followed the same principles by which this House stands. In this way

it is not correct to say that Sheikh Mohammad Abdullah was a supporter of the Right of Secession. We are not seeking the support of Sheikh Mohammad Abdullah or political Conference. We are advancing towards the same goal and confirming the same decision, which enjoyed the support of Sheikh Mohammad Abdullah and his colleague, Mr. Beg. It does not behoove the Hon'ble Member that he should invoke the name of Sheikh Mohammad Abdullah in supporting of his argument.

Sheikh Mohammad Abdullah went astray when he could not march forward to his former destination. Nobody can be happy when events have taken such a turn and it is not an example to be emulated by others. It is also said that there is a political party in the country known as the political conference. The leader of the House had said that this party was a part and parcel of the National Conference at one time. The colleagues of Sheikh Mohammad Abdullah recognized him as their leader only so long as he represented a sound ideology, followed a correct, path and abided by right principles.

The Kashmiri people respected Sheikh Sahib for his principles but when he got derailed he no longer commanded the respect and could not muster any appreciable support for his stand. If Sheikh Mohammad Abdullah had chosen the path of Choudhary Ghulam Abbas and Maulvi Yousuf Shah since 1931, he would have surely met their fate too. Sheikh Abdullah subscribed to the correct principles and, therefore, commanded the respect of one and all. When he gave up his principles he lost his position as well.

Reference has been made to the political conference here but this is an open secret that the Leaders of the Political Conference were a

party to these decisions taken by the National Conference. Their signatures are on these decisions. Is not it strange that they should now seek to lead the people away from this path? The political Conference started a campaign of speeches in support of Pakistan and when a police officer went to arrest the speakers, no more than three persons remained on the platform. Our organization, the National Conference, has a definite goal and, if Sheikh Mohammad Abdullah, Mirza M.A. Beg or Khawaja Ghulam Mohi-ud-din Kara were tried of leading the Country to this goal, they have no right to stop the people from marching on the same path, I cannot see any justification in it.

Some fears were also expressed, of course, somewhat feebly, regarding merger. It was said that we should have the right to secede so that whenever we are faced with a danger in future we exercise this right. No self- respecting and brave people will make their decision conditional because of fears. It is just like a thirsty person going towards water when someone tells him that he should not go near water lest he gets drowned in it.

But what he should see is if there is really so much danger of his getting drowned. It is by no means a wise policy to keep way from water because there is a possibility of the person getting drowned in it. Such a course of action is no solution to quench one's thirst. Likewise, we have to see if the demand for merger in India is so strong that it cash compel our submission. Are the people of India in its favour? Are not there progressive forces that are in favour of Kashmir's accession to Pakistan because of ideological affinity? If this is correct, why we should be afraid of imaginary dangers and

make our decisions conditional which does not behoove a self respecting and dynamic people.

Besides, a question has been raised about the representation of those people who live in the so-called 'Azad Kashmir' area. I need not say any more about it as the leader of the house has referred to it in his speech. He has said that the number of their representatives will not exceed 20 or 21 at the most and that the decision of the majority will stand. I take another aspect of the matter. On the one hand Azad Kashmir is ruled by an aggressor and on the other the Government of East Pakistan is being given into the hands of one man in mortal fear of the democratic principles. The rulers of Pakistan today intend to establish Governor's rule in East Bengal for fear of election. Have they abolished Jagirdari in the interests of the people? Have they established an Assembly for the eight hundred thousand people living there so that they make a decision in respect of their future? After all, what is the temptation that is luring our friend. I wish he were speaking these words in some Assembly of Pakistan where the Jagirdari system still obtains who is preventing "Azad Kashmir" people to make a decision. It is not we or the Indian Government but the Pakistan Government itself. Pakistan should give them freedom. We have not snatched their right of self-determination. They should be given the freedom to choose between India and Pakistan. Who prevents them from exercising this right? Is not in the Pakistan Army who have exceeded them? Mr. Goni should ask the Pakistan Government to give them the Right of Secession so that it is known whether they want to live under the Pakistan thralldom or in the democratic India or remain independent of the both (**Cheers**). As Mr.

Rajpuri has said that if the majority of the state's people have decided against accession to Pakistan and against remaining independent and have held the same view before and after 9th August, 1953, what is the fun in pressing for the right of secession and keep the matter of accession pending indefinitely.

Yet another objection has been raised that there are geographical difficulties in the way of our accession to India. It is said if a tunnel is bored there is no need for the Right of Secession but otherwise it should be kept there. I regret that my friend has raised such an objection and if he is desirous of maintaining the unity of Kashmir, Jammu and Ladakh and feels at the same time that the people of Kashmir share his views, how does he internally overcome this difficulty due to the absence of a tunnel for the people of his illaqa after the Right of Secession is exercised and Kashmir accedes to Pakistan. If he likes Kashmir to accede to Pakistan his own illaqa will continue to suffer in the absence of a tunnel at Banihal. This is really a matter of gratification that nobody except my Hon'ble friend feels that this difficulty is so insurmountable. He has raised this objection for argument's sake. I would like to say that geographical difficulties are not insurmountable. Take for example **Baldachin** (Badakshan) situated at the roof of the World. Would you suggest that it should be separated from the rest of the Country whose part it forms? Would you advise East Pakistan to merge with India as it is separated from the rest of Pakistan by a distance of hundreds of miles? Would not it be a ridiculous proposal? Geographical difficulties are always overcome by human will. I think any man not to speak of a living nation can reach his goal. It is not correct attitude to give up one's

destination because of difficulties. This may be the attitude of Sheikh Mohammad Abdullah but not of our party which is fact marching to its goal.

Objection has been raised to the jurisdiction of the Supreme Court. I am confident that the Hon'ble Member is not himself convinced about the correctness of his objection. The Supreme Court is an institution where people seek justice. There existed a Board of Judicial Advisors in the State previously for the same purpose. Of course, it could be said that the jurisdiction of the Supreme Court would be limited. The report makes it clear that suits involving small amounts of Rs.10 or 5 will not be heard in the Supreme Court. It cannot waste its precious time in deciding such petty cases. The jurisdiction of the Supreme Court will be limited to those matters in Kashmir also to which it is limited in the rest of India. Ordinary cases will not be heard there.

It has also been said that if we take a decision regarding accession, would India accept it. The speeches of Sir B.N. Rau have been quoted in support. Late Mr. Gopalaswami Ayyangar had made it quite clear when he said that the people of states would be given a fresh chance to take a decision in respect of accession as they might have acceded to India in 1947 in panic and out of fear. The decision whether to remain in India or not will be taken by the people of Kashmir. We can in constitutional language term it as Right of Secession. If my friend now pleads for Right of Secession why did not he raise this question at the time when the House ratified this decision? We had the right of Secession but Mr. Goni never exercised it. It is only when we are reiterating our decision to remain with India that he is now thinking of this right. This right is the same in respect of which we are taking a decision today. The population of Kashmir is today exercising its right in a positive manner and is taking a decision to remain with India. Doubts have been expressed whether India will accept such a decision. I would like to submit that the accession of the State to India was constitutionally effected by the ruler of the State with the support of the leader of the biggest political party of the country. Lord Mountbatten accepted the offer in unconditional terms. The Governor General enjoyed the authority of the Government of India and accepted

the Instrument of Accession without any condition. It was the democratic spirit of the Government of India that made them to commit to give us another chance to decide whether to continue or not to continue our accession with India. If you peruse the Instrument of Accession you will find no condition therein. Lord Mountbatten accepted this offer unconditionally. The accession is complete from the legal point of view. If the U.N.O Commission had its legal advisors with it, probably they too would give the same opinion that the offer was unconditional and the contract complete. This is not a new agreement. The question of bringing it before the Government of India afresh does not arise. Can anybody tell me when did the India people agreed with us when we abolished autocracy. They agreed with us and also supported us when we abolished the Antique Jagirdari System. Our State was being turned into a hot-bed of international intrigues and conspiracies and when we dealt with this menace, India supported us. When you now take a decision the India people will undoubtedly support it. The Government of India are bound to accept our decision as it is the case with this Assembly. India will be as obliged to abide by our decisions as they have been with regard to our other decisions. I hope the Hon'ble Members have read the statement of Dr. Katju which clearly says if we have decided to continue to remain with India, the government of India accept this decision. I am confident that nobody in the India Union will go against our decisions. Foreign countries like Pakistan and U.S.A may spread rumors in order to create misunderstandings but, I believe, every citizen of India will appreciate and honour our decision and none will oppose it. I would like to affirm it here that others may say whatever they like but the Kashmiris have decided their own fate. We have taken a decision that our state will accede to India and it is also essential for us to decide that the relevant laws of India should be enforced here in order to enable India to discharge the responsibilities devolving upon it in consequence of our accession.

Other matters come next and they have been explained in the reports. The reports make it clear that we have reserved our autonomy and need no whatsoever. We have defined the scope of those subjects which we have not handed over to the Centre, whether it is our judiciary or our Assembly or any

other thing. We had to make laws even with regard to the subjects. We have not handed over to India and these laws have been framed without any regard to consideration of religion, caste, colour or place and are based on the principles of new Kashmir. The leader of the House has already referred to the demand for the inclusion of right to work. It has been demanded that it should be recognized fundamentally. I would like to submit that any principle formulated in the Constitution is always considered as fundamental and the Government is bound to abide by it. It is not correct to include a principle which is impracticable in the present day circumstances. However, we have already made a promise in this respect and that should be enough. One or two more objections were raised will also be answered by a number of friends. I think the House for commending these Reports. I hope the House will pass the Reports minus the Note of Dissent rejected by the House unanimously. (**Cheers**).

Sir, I beg to move that the Report of the Committee on Basic principles minus Dissent Note be adopted.

Mr. Sham Lal Saraf: I second it.

Mr. Abdul Gani Goni: Sir, it would be impossible for me to answer every individual.....

***Mr. Moti Ram Baigra:** Sir, the Report are before the House and the motion to pass these has already been moved and I, therefore, think that no member should be allowed to speak thereon. Now I think these should be put to the House.

Hon'ble President: The motion before the house is that the Reports be adopted and the Hon'ble Member is opposing it.

***Mr. Abdul Gani Goni:** Sir, I was saying that if begin to reply to every individual member who has opposed my Note of Dissent I would require a lot of time which is not at my disposal and I fear the House too will not allow me so much time. So I would try to answer all the points in a general way and briefly. When I brought the matter of secession under discussion I told the House that the Government of India was not prepared for it. In reply to my question it was said that we were establishing our relations with the Indian people. My Hon'ble friend, Mr. Sethi

said that we were not entering into any relationship with the Government of India but with the peasant and workers, with the common people of India. Sir, it is clear from this as from the speeches of some other members also that the present Government of India does not represent the people and if we enter into any agreement with the Government of India in respect of accession it would not be valid neither would the Security Council recognize it. The Indian representative had clearly and expressly stated in the Security Council that no decision of the Kashmir Constituent Assembly⁶ regarding accession was binding on his Government. From arguments of the Hon'ble Members I cannot but conclude that we are not acceding to India, but creating a gulf between the Government and the people of India. Sir, our accession to the Government of India does not enjoy the support of the people.

Sir, a number of Hon'ble Members have criticized my objections and the Leader of the House has also quoted from the statements of Sher-i-Kashmir and Beg Sahib as authority. I would like to make a humble submission to him that our country is passing through an extremely critical phase and we should take our decision after careful thought. If he is today quoting the statement of Sher-i-Kashmir and Beg Sahib in support of complete accession to India. I would like to tell him that prior to 1947 both Mahatma Gandhi and Pandit Jawahar Lal Nehru affirmed that Pakistan would be established only upon their graves and the division of India amounted to cow-slaughter. But, Sir, it is now known to everybody that due to the compelling force of circumstances they had to accept the reality of Pakistan. Likewise, Sher-i-Kashmir was forced by the circumstances to adopt a changed course. It is said that Sheikh Sahib placed a definite programme before us and that we are following the same but we have to see whether abided by its commitments. Six years ago on the 22nd October, 1947, Sher-i-Kashmir after having been released from the Bhaderwah Jail, declared it amidst thousands of people in Hazuri Bagh, Srinagar, that Kashmir was acceding to India not because of his friendship with Pt. Nehru but due to the force of events. He declared it in the capacity of the leader of the National Conference and the representative of the four million people of the State. He did not forget to

add that it were the people of Kashmir who would ultimately decide the future status of the State and the friendship of Pt. Nehru would not come in their way.

Mr. Moti Ram Baigra: if we are today acceding to India don't you think that it means the people of the state are acceding to India?

***Mr. Abdul Gani Goni:** No, I don't think so. On the one hand India adopted a principle and on the other they abetted communalism. Sheikh Sahib observed all these things and declared that the people of the State would themselves solve the stalemate that had come to stand for the last six years. Thereupon the rulers of India boosted up an organized known as the Praja Parishad to challenge the National Conference and all that it stood for.

☛ **Voices:-** Question 'Question' Sir.

***Mr. A.G. Goni:** Sir, the reaction of the Praja Parishad agitation in India was that this organization was hailed there. Newspapers gave big headlines to their agitation and the people of India supported it and used it against the leadership of Kashmir secretly. The agitation received very warm support. Mr. Shyama Prasad Mukerjee too participated in the agitation and when he entered the Stage in a bid to get it amalgamated with India. Pt. Nehru declared it to be a correct step.

☛ **Voice:-** It is wrong, shame, shame.

Bakshi Ghulam Mohammad: it is totally wrong. Please do not make false statement.

***Mr. Abdul Gani Goni:** Sir, my submission is that even if Mr. Nehru stated that the path adopted by Mr. Mukherji was wrong (Cheers) but he, at the same time, said that Kashmir should become a part of India fully. In this way the purpose of Pt. Nehru and Shyama Prasad Mukerjee was one. Nobody has answered my objections while it has been said that I do not represent any section of the people except my own self. I would like to say it for the information of this House that although I represent the Baderwah people here I want this house to truly represent the aspirations of the people. I would make an humble submission that let us withdraw the Indian Army for five days from the State and see whom the House represents.

Mr. Krishen Dev Sethi: Sir, I stand on a point of order. Can an Hon'ble Member who has submitted a Note of Dissent speak against it or in favour of it?

Mr. President:- It seems that the Hon'ble Member has changed his opinion, (Laughter).

***Mr. Abdul Gani Goni:** Sir, I say let them keep away that force for one day which supports their rule and discover their own position.

Voices:- will the Pakistan forces then march in or the American Army or Dixon's.

***Mr. Abdul Gani Goni:** No, precisely in the absence of foreign troops I would like to see how these people who claim to represent the four million people of the state lead the country.

☛ **Note:-** There was a volley of question and the member resumed his seat amid / interruptions.

Mr. Bhagat Ram Sharma: What is wrong with you?

***Mr : Abdul Gani Goni:** I am not prepared to speak any more in such atmosphere.

☛ **Note:-** The member then left the House without any expression.

Mr. Harbans Singh: He is going to Pakistan. (Laughter and voices).

Mr. Ghulam Mohammad: Mr. Rajpuri; I would like to say a few words about it. The note of Dissent presented by him concerning the Reports has been reduced to a farce by him. He has attacked the Reports wholly, though at the first he proposed to agree with them generally. The specific point stressed by him was the right of secession. He tells us that besides our accession to India we should also have a Right of Secession. As intelligent persons we should learn from life and from history. In 1947, our State had not yet acceded to either India or Pakistan and was in a way enjoying independence. At that time it was the joint agreed slogan of the National Conference Leader and the whole people of the State that they should be allowed to decide the question of accession after careful thought. Were the people given enough time to think over the matter fully? This is that leaf of our history which should be read again by us. Wasn't it the same position which results from the exercise of Right of Secession.? At

such time Pakistan raided our state; the raiders burned and pillaged village after village and slaughtered people like sheep. Naturally the question arises that when we had to face such a situation then why should anybody insist on having the Right of Secession when there is every danger of that very situation arising again. Our neighbor adopted a course of aggression at the time and we ought to have learned a lesson from this. Should not the learned member too learn a lesson there from? He has complained that India has not been just towards Sher-i-Kashmir. It is a matter worth examination. The question is when Sher-i-Kashmir acceded to India, how he viewed the whole thing. The accession was made to preserve some basic principles to keep alive our great ideals. Didn't require the support of the millions of India's common people and that of her progressive and enlightened elements? If he did not succeed in his objectives, the all round stalemate in the State afford opportunities of growth to destructive forces; if people became restive and the State witnessed some agitation and disorder, does it mean that India was not just to him. I think that he was not just to himself and did not succeed in carrying forward these ideals. He refused to see his own weakness and blamed India for his own failings. It is not correct to say that India did not do justice to him. I do not claim that every thing goes smoothly in India but, at least, India did not resort to aggression against us. When we compare India to Pakistan we find that man lays down his precious life in the fight against communalism. On the other hand no Leader sacrifices his life in Pakistan while extinguishing the fires of communalism but kindles these fires and to such an extent that he himself becomes a victim to it. Communalism has raised its ugly head from Pakistan and it has not caused anxiety among the neighboring people alone but even among her own people. They feel compelled to revolt against the Government. The time is not far off when the people of Pakistan will rise in revolt and a terrible civil war will range there. I would like to tell the Hon'ble Member who has stressed the Right of Secession in his speech that an intelligent man could well ponder over it in 1947 or prior to it but the subsequent events have taught us that it would be nothing but inviting fresh aggression Government where a human being is not treated like a human being and which, not speak of

fulfilling the obligations of good neighborliness, does not even understand such obligations. Under these circumstances it is nothing short of a suicidal step to raise the slogan of Right of Secession.

Note: - The time bell rang and the Hon'ble Member resumed his seat.

Mr. President: Now the question that the Reports of the Basic Principles Committee is amended by House minus the Dissenting Note be adopted.

Note:- The motion was adopted amidst prolonged cheers.

Mr. Mir Qasim: Sir, I beg to move that the Report of the Advisory Committee on Fundamental Rights and Citizenship as amended by the House be adopted.

Mr. Ghulam Rasul Renzoo: Sir, I support it.

Mr. President: Now the question is that the Report of the Advisory Committee on Fundamental Rights and Citizenship as amended by House be the adopted.

Note: - The motion was adopted amidst cheers from all quarters of the House.

Mr. President: With that ends today's business but before adjourning the House I seek the permission of the House to adjourn it till 11th February, 1954. The Drafting Committee will complete its deliberations on the Report by 11th February, 1954 and place its Report before the House on that day. I presume that I have the permission of the House.

Note: - The House agreed and then adjourned till 11th February, 1954.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

(OFFICIAL REPORT)

FEBRUARY, 1954 SESSION

11th February, 1954, Thursday, the 30th March, 2010.

The Constituent Assembly met in the Constituent Assembly Chamber, Grey Hall, Jammu, at eleven of the O'clock.

Mr. President:- (The Hon'ble Mr. G. M. Sadiq) in the Chair;

Mr. President:- Mir Qasim.

Mr. Mir Qasim:- Sir, I beg to present the report of the Drafting Committee.

Note:- The enclosed report of the Drafting Committee was read out in the House.

REPORT OF THE DRAFTING COMMITTEE

In pursuance of the directives contained in the Reports of the Basic Principles Committee and the Advisory Committee on fundamental Rights and Citizenship, as adopted by the House on 6th February, 1954, the Drafting Committee has considered the question as to how best to give effect to the recommendations embodied in these Reports. The task which the Committee has to discharge requires action in the following directions:-

Preparation of the Drafting Constitution of the State.

(1) Defining the sphere of Union Jurisdiction in the State and for that purpose suggesting the various provisions of the Constitution of India along with modifications and exceptions subject to which these provisions should apply to the State. These would include appropriate modifications and exceptions in Part II (Citizenship) and Part III (Fundamental Rights) in their application to the State of Jammu and Kashmir in the light of the recommendations contained in the report of the Advisory Committee on Citizenship and Fundamental Rights.

(2) Consequential amendments in the Jammu and Kashmir Constitution Act, 1996.

As far the preparation of the Draft Constitution for the State the Committee feel that in view of the importance and magnitude of the work involved, adequate time will be needed for the completion of this task and accordingly recommends that the same may be allowed.

The Annexure to this Report while reflecting the desire of the House for the ratification of the accession of the State with the Union of India, indicates in detail provisions of the Constitution of India which generally correspond to

Defence, Foreign Affairs and Communication and such other matters as are considered essential concomitants of the fact of accession. IN accordance with the directions contained in the reports, referred to above, the Committee has endeavored to clearly demarcate the sphere of Union Jurisdiction keeping intact all along the residual powers of the State. While doing so the committee has further provided adequate safeguards for preserving the basic policies of the State in respect of the land-reforms and the interests of the permanent residents of the State.

A bill for the purpose of making consequential amendments in the Jammu and Kashmir constitution Act, 1996 in the light of the Report referred to in the opening paragraph of this Report will be drafted and presented to the House in due course.

Dated: Jammu, the	(Sd)	G.L. Dogra
11 th February, 1954	“	Mir Qasim
	“	D. P. Dhar
	“	Ghulam Rasool Renzu
	“	Harbans Singh, Azad
		Members Drafting Committee.

Annexure to the Report of the Drafting Committee.

The provisions of the Constitution of India which, in addition to Article 1 and Article 370 should apply in relation to the State of Jammu and Kashmir and the exceptions and modification subject to which they should so apply will be as follow:-

1. The preamble.

2. Part I: The Article 3, there shall be added the following further proviso, namely-

“Provided further that no bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State”.

3.Part II: (a) This part shall be deemed to have been applicable in relation to the State of Jammu and Kashmir as from the 26th day of January, 1950.

(b) To article 7, there shall be added the following further proviso namely:-

“Provided further that nothing in this article shall apply to a permanent resident of the State of Jammu and Kashmir who, after having so migrated to the territory now included in Pakistan, returns to the territory of that State under a permit for resettlement in the State or permanent return issued by or under the authority of any law made by the Legislature of that State, and every such person shall be deemed to be a citizen of India.”

4.Part III: (a) IN Article 13, the references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(b) In clause (4) of Article 5, the reference to Scheduled Tribes shall be omitted.

(c) In clause (3) of Article 16 the reference to the State shall be construed as not including a reference to the State of Jammu and Kashmir.

(d) To Article 19 there shall be added for a period of five years from the commencement of this Order the following clause namely:-

“(7) The words reasonable restrictions occurring in clauses (2), (3), (4) and (5) shall be construed as meaning such restriction as the appropriate Legislative deems reasonable.”

(e) In clauses (4) and (7) of Article 22 for the words “Parliament”, the words “the Legislature of the State” shall be substituted.

(f) In Article 31, clauses (3), (4) and (6) shall be omitted and for clause (5) there shall be substituted the following clause, namely:-

(5) Nothing in clause (2) shall affect:-

(a) the provisions of any existing law; or

(b) the provisions of any law which the State may hereafter make-

(i) for the purpose of imposing or leaving any tax or penalty; or

(ii) for the promotion of public health or the Prevention of danger to

- life or property; or
- (iii) With respect to property declared by law to be evacuee property”.

(g) In article 31- A for sub-clause (a) of clause (2), the following sub-clause shall be substituted, namely:-

(a) ‘estate’ shall mean land which is occupied or has been let for agriculture purposes or for purposes subservient to agriculture or for pasture, and includes-

(i) sites of buildings and other structures on such land;

(ii) trees standing on such land;

(iii) forest land and wooded waste;

(iv) area covered by or fields floating over water;

(v) sites of jandars and gharats;

(vi) any jagir, inam, muafi, or mukarrari or other similar grant; but does not include-

(i) the site of any building in any town or town area or village abadi or any land appurtenant to any such building or site;

(ii) any land which is occupied as the site of a town or village; or

(iii) any land reserved for building purposes in a Municipality or notified area or cantonment or any area for which a town planning scheme is Sanctioned”.

(h) In Article 32, clause (3) shall be omitted; and after clause (2), the following new clause shall be inserted namely:-

“(2A) Without prejudice to the powers conferred by clauses (1) and (2), the High Court shall have power throughout the territories in relation to which it exercises jurisdiction to issue to any person or authority, including in appropriate cases any Government within those territories, directions or orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo

warrant to and certiorari, or any of them, for the enforcement of any of the rights conferred by this part”.

(i) In Article 35-

(i) references to the commencement of the Constitution shall be constructed as references to the commencement of this Order.

(ii) in clause (a) (i), the word “clause (3) of Article 16, clause (3) of Article 32” shall be omitted; and

(iii) after clause (b), the following clause shall be added, namely:-

(c) Any law in force immediately before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, in the State of Jammu and Kashmir with respect to any of the matters referred to in clause (7) of Article 22 shall continue in force until altered or repealed or amended by the Legislature of that State”.

(i) After article 35, the following new article shall be added namely:-

“35-A Notwithstanding anything contained in this Constitution no existing law in force in the State of Jammu and Kashmir, and no law hereafter enacted by the Legislature of the State:-

(a) Defining classes of persons who are, shall be, “permanent residents of the State of Jammu and Kashmir”; or

(b) Conferring on such permanent residents any special rights and privileges, or imposing upon other persons any restrictions, as respects:-

(i) employment under the State Government;

(ii) acquisition of immovable property in the State;

(iii) settlement in the State; or

(iv) right to scholarships and such other forms of aid as the State Government may provide-

Shall be invalid on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this Part.

5. Part V: (a) In articles 54 and 55, the references to the elected members of the House of the People and to each member shall include reference to the representatives of the state shall be deemed to be forty four lakhs and ten thousand.

(b) In the proviso to clause (1) of Article 73, the words “or in any law made by Parliament” shall be omitted.

(c) Article 81 shall apply subject to the modification that the representatives of the State in the House of the People shall be appointed by the President on the recommendation of the Legislature of the State.

(d) In Article 134, clause (2), after the words “Parliament may” the words “on the request of the State” shall be inserted.

(e) Articles 135, 136 and 139 shall be omitted.

(f) In Articles 139 and 150, reference to the state shall be constructed as not including the State of Jammu and Kashmir.

(g) In Article 151, clause (2) shall be omitted.

6. Part XI: (a) In Article 246, the words “Notwithstanding anything in clause (2) and (3)” occurring in clause (1) and clauses (2), (3) and (4) shall be omitted.

(b) Articles 248 and 249 shall be omitted.

(c) In Article 250, for the words “enumerated in the State List”, the words “not enumerated in the Union List” shall be substituted.

(d) In Article 251, for the words and figures “articles 229 and 250”, the word and figures “Article 250” shall be substituted and the word “under this Constitution” shall be omitted; and for the words “under either of the said article” the words “under the said article” shall be substituted.

(e) To Article 253, the following proviso shall be added, namely:-

“Provided that after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of India without the consent of the Government of the State”.

(f) In Article 254, the words “or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then

subject to the provision of Clause (2)” and the words “ or as the case may be, the existing law” occurring in clause (1) and the whole of clause (2) shall be omitted.

(g) Article 255 shall be omitted.

(h) Article 256 shall be renumbered as clause (1) of that article, and the following new clause shall be added thereto, namely:-

“(2) the State of Jammu and Kashmir shall so exercise its executive power as to facilitate the discharge by the Union of its duties and responsibilities under the Constitution in relation to that State; and in particular, the said State shall, if so required by the Union, acquire or requisition property on behalf and at the expense of the Union or if the property belongs to the State, transfer it to the Union on such terms as may be agreed, or in default of agreement as may be determined by an arbitrator appointed by the Chief Justice of India”.

(i) Article 259 shall be omitted.

(i) In clause (2) of Article 261, the words “made by Parliament” shall be omitted.

(7) Part XII: (a) Clause (2) of Article 267, Article 273, Clause (2) of Article 283, Articles 290 and 291 shall be omitted.

(b) In Articles 266, 282, 284, 298, 299 and 300, reference to the State or States shall be construed as not including references to the State of Jammu and Kashmir.

(c) In Article 277, reference to the commencement of the Constitution shall be constructed as reference to the commencement of this Order.

(8) Part XIII: (a) In clause (1) of Article 303, the words “ by virtue of any entry relating to trade and commerce in any of the List in the Seventh Schedule” shall be omitted.

(b) In Article 306, reference to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(9) Part XIV: In Article 398 after the words “ First Schedule”, the words” other than the State of Jammu and Kashmir” shall be added.

(10) Part XV: (a) Article 324 shall apply only in so far as it related to elections to

Parliament and to the offices of President and Vice-President.

(b) Articles 325, 326, 327, 328, and 329 shall be omitted.

(11) Part XVI: (a) Articles 331, 332, 333, 336, 337, 339 and 342 shall be omitted.

(b) In Article 330, references to the "Schedule Tribes" shall be omitted.

(c) In Articles 334 and 335 references to the State or States shall be construed as not including references to the State of Jammu and Kashmir.

(12) Part XVII: the provisions of this Part shall apply only in so far as they relate to :-

(i) the official language of the Union.

(ii) The official language for communication between one State and another, or between a State and the Union; and

(iii) The language of the proceedings in the Supreme Court.

(13) Part XVIII: (a) Articles 356, 357 and 360 shall be omitted.

(b) To Article 352 the following new clause shall be added, namely:-

"(4) No Proclamation of Emergency made on grounds only of internal disturbances or imminent danger thereof shall have effect in relation to the State of Jammu and Kashmir (except as respects Articles 354) unless it is made at the request of or with the concurrence of the Government of the State".

(14) Part XIV: (a) In Article 361, after clause (4), the following clause shall be added, namely:-

"(5) The proviso of this article shall apply in relation to the Sadr-i-Riyasat of Jammu and Kashmir as it applies in relation to a Rajpramukh, but without prejudice to the provisions of the Constitution of that State".

(b) Articles 362 and 365 shall be omitted.

(c) In Article 366 clause (21) shall be omitted.

(d) To Article 367, there shall be added the following clause, namely:-

"(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir.

- (a) references to the Constitution or the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;
- (b) references to the Government of the said State shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers;
- (c) references to the High Court of a State shall include references to the High Court of Jammu and Kashmir;
- (d) references to the Legislature or the Legislative Assembly of the said State shall be construed as including references to the Constituent Assembly of the State.
- (e) references to the permanent residents of the said State shall be construed as meaning persons who, before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, were recognized as State subjects under the law in force in the State or who are recognized by any law made by the Legislature of the State as per residents of the State; and
- (f) references to the Rajpramukh shall be construed as references to the persons for the time being recognized by the President as the Sadar-i-Riyasat of Jammu and Kashmir and as including references to any person for the time being recognized by the President as being competent to exercise the powers of the Sadar-i-Riyasat".

15. Part XX: To Articles 368, the following proviso shall be added namely:-

"Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of Article 370".

16. Part XXI: (a) Articles 369, 371, 373, clauses (1),(2),(3) and (5) of Article 374 and Articles 376 to 392 shall be omitted.

(b) In Article 372-

- (i) clauses (2) and (3) shall be omitted.
- (ii) references to the laws in force in the territory of India shall include references to Hidayats, Ailans, Ishtihars, Circulars, Robkars, Irshads, Yadashts,

State Council Resolutions, Resolution of the Constituent Assembly and other Instruments having the force of law in the territory of the State of Jammu and Kashmir; and

(iii) Reference to the commencement of the Constitution shall be construed as references to the commencement of this Constitution (Application to Jammu and Kashmir) Order, 1954.

(c) In clause (4) of Article 374, the reference to the authority functioning as the Privy Council of a State shall be construed as a reference to the Advisory Board constituted under the Jammu and Kashmir Constitution Act. 1996 and references to the commencement of this Constitution shall be construed as references to the commencement of this order.

(17) Part XXII: Articles 394 and 395 shall be omitted.

(18) First Schedule.

(19) Second Schedule:- Paragraph 6 shall be omitted.

(20) Third Schedule:--- Forms V, VI, VII and VIII shall be omitted

(21) Fourth Schedule.

(22) Seventh Schedule:- In the Union List

a. for entry 3, the entry "3. Administration of cantonments" shall be substituted;

b. entries 8,9,33 and 34, the words "trading corporations including" in entry 43, entries 44, 50, 52, 55, 60, 67, 78 and 79, the words "inter State migration" in entry 81 and entry 97 shall be omitted;

c. for entry 56, the entry "53. Petroleum and Petroleum Products but excluding the regulation and development of oil fields and mineral oil resources; other liquids substances declared by Parliament by law to be dangerously inflammable" shall be substituted; and

d. in entries 72 and 76 the reference to the State shall be construed as not including a reference to the State of Jammu and Kashmir.

(b) The State list and the Concurrent list shall be omitted.

(23) Eight Schedule.

(24) Ninth Schedule:--- After entry 13, the following entries shall be added,

namely:-

14. The Jammu and Kashmir Big Landed Estates Abolition Act (No.XVII) of 2007.
15. The Jammu and Kashmir Restitution of Mortgaged Properties Act (No. XVI of 2006).
16. The Jammu and Kashmir Tenancy Act (No.II of 1980).
17. The Jammu and Kashmir Distressed Debtors Relief Act (No. XVII of 2006).
18. The Jammu and Kashmir Alienation of Land Act (No. of 1995).
19. Order No. 6H. of 1951 regarding resumption of Jagirs and other assignments of Land Revenue etc.
20. "The Jammu and Kashmir State Kuth Act (No.1 1978)".

Mr. Mir Qasim: Sir, having presented the Drafting Committee's report, I now beg to move that the report be taken into consideration.

Mr. S.L. Saraf: Sir, I second the motion.

Mr. Gulam Mohammad Rajpouri: Sir, in view of the supreme importance of the report I propose that its consideration be postponed for at least two days.

Mr. President: It has been proposed that the report laid before the House by the Drafting Committee be taken into consideration. I have also been suggested that some time should be granted to the members to study the report. I therefore, deem it proper to fix discussion on the report for Saturday. This concludes the business fixed for today and we shall meet here again on Saturday, the 13th of February 1954 at 11 A.M.

☛ **Note:-** The House adjourned till Saturday the 13th February, 1954 at 11 A.M.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

FEBRUARY, 1954, SESSION

13th February, 1954, Saturday, the 2nd Phagan, 2010.

The Constituent Assembly met in the Assembly Chamber, Grey Hall, Jammu at eleven of the O'clock.

Mr. President (the Hon'ble G.M. Sadiq) in the Chair.

Mr. Ghulam Mohammad Rajpuri: Sir, I move the following amendment to the report of the Drafting Committee presented before the House on 11th of February, 1954.

[That at page 2 of the annexure to the Report in Sub-clause (g) of clause 4, after the word figures and letter "article 31-A" the words, brackets and figures, "proviso to clause (i) shall be omitted and shall be inserted"]

I think the omission in the report, as it has occurred accidentally and purely of ground of oversight. It is completely inconsistent with the intentions of this House. I submit, Sir, that the amendment be accepted.

Sardar Harbans Singh:- Sir, I second the amendment.

Mr. Girdhari Lal Dogra:- Sir, there is an omission in the annexure to the report. I want to put forth a correction slip in this behalf.

[In the annexure to the Report of the Drafting Committee please read "the application of these provisions to the State" for the words "commencement of this order "or" the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954" wherever occurring].

It was just an omission which I wanted to bring to the notice of

Note:- The star mark indicates that the speech was delivered in Urdu and the English translation thereof has been incorporated in the debates, the House. Besides, an amendment has been put forth which I accept on behalf of the mover who has authorized to do so.

Bhagat Ram Sharma: Sir, I beg to move that:-

[At page 17 of the Report in clause 24 the entry "20. The Jammu and Kashmir State Kuth Act (No. 1 of 1978)" should be added at the end].

Sir, the entry, I want to incorporate is at item 20. It concern so the Kuth Act. It ought to have been in the Report but because of an oversight it has been dropped. I submit, Sir that the amendment be accepted.

Mr. Chuni Lal Kotwal: Sir, I second it.

Mr. G. L. Dogra: I accept it, Sir.

Mr. President: The Report of the Drafting Committee is before the House. At present it is being brought under consideration, and if any Hon'ble member wants to take part in its discussion he may do so.

(Addressing Mr. Dogra); Do you want to say something?

Mr. G.L. Dogra:- Sir, the report is before the House. It is being discussed for the last two days. When its is adopted by the House, the long standing desires of this country for which we have been trying for the last six years will be fulfilled. Its adoption by the House will make the accession of this country to India permanent. We are acceding to that India which is the defender of peace and which is trying to check the possibilities of war. It in any part of the world war breaks out or any disruption is created; India extends her hand of friendship and peace and saves that part of the world from the disaster of war. Today by adopting this measure we are strengthening our relations with India permanently. Economically India is advancing at present. There is no doubt that famine is being eradicated and it is expected that she will be self-sufficient within a year or two. The problem of unemployment is also being solved. Nobody can challenge the economic advancement of India. So, we are strengthening our relations with such a country which is treading the path of progress.

Sir, when famine broke out in our State. India helped us, when floods ravaged our State. India sent/gave us financial relief; when our country was invaded by raids, India sent her soldiers to defend us. These soldiers sacrificed their lives for us, they saved our honour, lives and property; in short they rendered every possible help to us. When our country was raided, we requested India for help. The people of India helped us then and said.” At present you are under foreign pressure and so we realize your position and allow you to decide the question of accession to India freely you are liberated and the confusion and disorder in the country is swept” away. And today, we are acceding to India after considering the question thoroughly. This accession will benefit us in many ways about which not only I but everybody in the country is convinced. This permanent accession to India will put an end to the uncertain condition in the country. Such conditions were prevailing in our country and were hampering our progress. Those people who are our enemies in the guise of friends and those who are openly our enemies, are expressing different opinion about this step of ours. They, while accepting the sovereignty of this House. say that we should not have taken such a step which of course. Puts our country on the path of progress and puts an end to uncertain conditions in the State for all times to come. But we are taking this step to make our country prosperous. I am, therefore, congratulating the House today. In this Session all the members have taken this great step quite courageously. It will certainly put our country on the path of progress.

Sir, the Hon’ble mover being indisposed, has not been able to present him-self here. If the House deems fit, the discussion on the consideration motion be postponed till day after tomorrow so that the adoption motion be discussed in his presence.

Mr. President: The question is that the discussion on the consideration motion regarding the report of the Drafting Committee be postponed till Monday. I think in view of its importance, the House will allow the postponement of this discussion.

☛ **Note:- The House agreed.**

Mr. President: Raja Mohammad Afzal Khan.

Raja M. A. Khan: Sir, I move that 6th February, be included in the List of Holidays as 'New Kashmir Day'.

Mr. Ghulam Hassan Khan: Sir, I second it.

Molvi Gh. Nabi Hamadani:- Sir, I further support it.

Mr. President: Will the Hon'ble mover like to say something regarding the motion.

Raj Mohammad Afzal Khan:- Sir, thanks be to Providence who has snapped the chain of our centuries old slavery and has crowned with success the twenty years old struggle of the National Conference. In this struggle of ours. India took a prominent part and Pandit Jawahar Lal Nehru also was imprisoned in the Dak Bungalow of Uri Quite contrary to it, the Pakistan leaders dabbed it as the agitation conducted by hooligans and advised the Government of the Maharaja to crush the same. Thereafter they raided our country to make us slaves. Had they succeeded in their plans, not to speak of framing our constitution, w would have lost our land, property and country also.

The four million Kashmir's comprise a nation. We know how to differentiate between a foe and a friend. We are neither ungrateful nor shameless cowards. We have with full determination, fulfilled our pledge which Sheri-i-Kashmir had given to Pt. Nehru in the Red Square, Srinagar. Not it is for our Pt. Nehru to redeem his pledge and restore every inch of our country and our kith and kin, who are at present victims of oppression.

Sir, we completed the framing of our constitution according to the principles of New Kashmir on the 6th of February, 1954. That is why I request that this day should be included as 'New Kashmir Day' in the List of State Holidays.

Mr. Ghulam Mohi-ud Din Hamdani:- Sir, the Hon'ble Member, Raja Mohammad Afzal Khan has moved that 6th of February, be included in the List of State Holiday's. If I am permitted I would like to propose an amendment and suggest that the New Kashmir Day should be observed as a Public Holiday on the date we finally completed our Constitution. There is no doubt that the major portion of our constitution was completed on 6th of February, but still there remains a large portion of same to be finalized. The common man of the State is

also quite eager to see the remaining portion of the Constitution completed. The day, when we will finally complete our Constitution, will be the proper day for celebration. I would, therefore, like to request that, instead of February, 6th that day be included in the List of State Holidays.

Bakshi Gulam Mohammad:- Sir, as regards the motion of Raja Mohammad Afzal Khan regarding the celebration of 'New Kashmir Day' I fully agree with it. That day should not be a public holiday only but we should begin to give practical shape to 'New Kashmir' from that day. Hon'ble Hamdani has also put forth an amendment that it should be celebrated on that day when we frame our Constitution completely and not on 6th of February. I think there is not much difference in the motion of Raja Sahib and the amendment of Hamdani Sahib. Raja Sahib wants to celebrate it on the day we adopted the reports of Basic Principles Committee and Fundamental Rights Committee while Hamdani Sahib wants to celebrate it on the day we completely frame our Constitution. My personal opinion is that we should celebrate it on the day we are able to frame our Constitution completely. It should be such a Constitution which can put our country on the path of progress and lead to the improvement of its economic conditions. Undoubtedly, it will be that day when we are able to assure the citizens, villagers and coming generations of the State that it will be the responsibility of any Government of the State to eradicate communal hatred and bigotry and put the country on the right path of economic progress which affords equal opportunities of progress to the inhabitants of the country.

As far accession to India, we have fulfilled all necessary obligations devolving on us. We have also completed one part of the Constitution and there remains another part of it relating to the people to be completed. I think the day when we are able to do away with all these impediments should be observed as a holiday. India also celebrates its independence day. Every Indian celebrates it with great joy and festivity. As Kashmir is also part of India that too a day for celebration for every Kashmiri as well as for myself. But there should be one more day for us and it should be the day when we completely frame our Constitution.

Raja Mohammad Afzal Khan: Sir, I accept the amendment.

Mr. President. There is no more business for the day. The discussion on the motion for consideration of the Report of the Drafting Committee will therefore be continued on Monday. I accordingly adjourn the House till Monday when we will meet again.

☛ **Note:-** The House adjourned till Monday, the 15th of February, 1954.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY.

FEBRUARY, 1954 SESSION

15TH February, 1954 Monday, the 4th Phagan, 2010.

The Constituent Assembly met in the Assembly Chamber, Grey Hall, Jammu.

Mr. President (The Hon'ble G.M. Sadiq) in the Chair.

***Mr. Sham Lal Saraf:** Sir, permit me to submit a few words on the Draft Constitution which the Hon'ble Member has put before the House in the shape of Basic Principles and Fundamental Rights. The Draft Constitution which is being given a final shape and adopted in this House fulfills our objectives and is the fruition of our aspirations for the achievement of which the four-million population of the State has been resolutely fighting irrespective of cast, creed and nationality. Many of the respected citizens of the State made individual efforts to awake the people and as a result their voices gave rise to certain movements. I remember Sheri-Dogra Late. L. Hans Raj. We knew him when we were young students of colleges and schools. Though he was a Government Officer working as the Public Prosecutor, he would impress upon the youth the necessity of launching such a movement that would enable the people of the State to capture power and guarantee the social and economic betterment of the country. That was the time when people from outside the state were settled down in the State. They considered us backward and laid impediments in our educational progress. Besides they did not permit us to participate in the activities of different nature. They laid hold on us and monopolized all economic resources.

Sir, the people of the State has at that time also full realization of the fact that until sovereignty vested with the people, the country cannot make any progress. Sardar Bodh Singh Jee, who was then a Government Officer, was painted by the pitiable condition of the people. He resigned from.

Note:- The star mark indicates that the speech was delivered in Urdu and the English translation thereof has been incorporated in the debates.

Government service with a view to freeing the people of the country from bondage. This goes without saying that Sheikh Mohammad Abdullah and his colleagues launched the freedom movement in the country and awakened the people. Consequent upon this awakening there came into existence a strong organization National Conference. This organization prepared the people to break the bondage and to achieve freedom. It is through this organization that we freed the people from the servitude. Although a number of difficulties came in our way and a number of worker died in this battle, yet we firmly stood by our promise that we shall unanimously abide by our declared principles. We resolutely fought for the achievement of our ideals and we succeeded in this fight. And now the new movements, the Constitution for the generations and from the Government-all shall be free from the communal outlook.

Last year, when our struggle was about to reach its final stage chaotic conditions were created in our country. Unfortunately some of our colleagues acted in violation of the principles of the National Conference. But we should congratulate the National Conference and that leadership and those of our colleagues who followed the approved principles and ideals and faced all the difficulties at such a stage and saved the people from chaos by assuming charges of the Government. Not only did they own these principles and ideals, but they achieved them. These principles and ideals have been given a constitutional shape and are before us. I am convinced that this spirits of the martyrs who laid down their lives for the achievement of these ideals will feel great solace and satisfaction.

When a change in the Government took place some interested persons tried to provoke the people by saying that such a step was taken against the majority

of the people. They also become a cause of the frustration amongst our Muslim brethren. But the Draft Constitution, in the preparation of which my Muslim friends have followed the ideals and principles of the National Conference leads to victory for millions people of the country-especially the Muslim population. The representatives of the people have to prove the world how one can firmly follow ones principles. Referring to the Citizenship Rights some people say that the chapter regarding permanent Resident in the Constitution is aimed at providing concessions to a particular class of the people. By making such remarks they want to create unrest amongst the majority of the people. If we thoroughly examine the chapter relating to the Citizenship Rights it will be evident that interests of all the four million people of the State have been safeguarded. There are people who have settled down in the State for the last two or three generations i.e. since 1942 but they have not been declared as State subjects. This Constitution shall do justice equally to our brethren residing across the cease-fire-line. Even after acceding to the Indian Union I feel necessary that we should impose certain restrictions in respect of a persons being treated as a permanent resident of the State.

The State of Jammu and Kashmir is situated in the farthest end of the Indian Union. There are still very little opportunities for trade and employment for the people of this State. The economy of these people cannot develop unless the trade flourishes. Large State Industries are set up arrangements for railway transport are made and the Country makes industrial progress in real sense. It is, therefore, essential that unless such conditions are created restrictions as referred to above should be imposed. The person who creates suspicions in this behalf should know that the members of the old Legislative Assembly did not adhere to this principal as strictly as we do. My opinion is that restrictions should be there keeping in view the conditions prevailing in the State.

In the countries following progressive outlook the executive is separate from the judiciary. Our Constitution also guarantees that our executive shall be separate from the Judiciary i.e. the action taken by an Executive Officer cannot effect the decisions of the judiciary. As such our High Court shall be independent

in the real sense of the world. Besides, cases from the State can also be heard by the Supreme Court of India on which there is no executive control. The Indian Parliament alone shall enact laws with regard to the subjects in which we have acceded to India and the judgment of the Supreme Court shall be final. Our lawyer friends have thrown ample light on the Civil and criminal jurisdiction of the Supreme Court over State. Our litigant public can approach the highest court and at the same time every Lawyer of our court shall have the opportunity of appearing before that court.

Since the present Government came to power it has been evolving means to better economic conditions of the people. It need not be emphasized that the National Conference has set for itself the task of improving the lot of the country and its people. It has its own programme—the programme of a “New Kashmir” Although the previous Government worked according to this Programme by enacting progressive measures and Law etc. but the result of these reforms is evident from what some Hon'ble Members have said. These laws and measures did not prove beneficial to the peasantry and the labour classes of the country. On the contrary such circumstances made their direct or indirect appearance that the economic condition of the country got more deteriorated. But congratulate my Leader Bakshi Sahib, who immediately after taking the administration applied himself heart and soul to the work for educational, economical and industrial development in co-operation with his colleagues. As a result thereof it is plain enough that our country which could not economically progress so far, can now progress by positive action alone. The Hon'ble Prime Minister has declared that customs barriers are being lifted. This measure shall enable the development of free trade in the country. Small scale industries i.e. the cottage industries and large scale industries can also be revived. These industries will be developed in a manner that will benefit the country.

Mr. Abdul Gani Goni: Sir, is the Hon'ble Minister speaking on the Constitution or the Industrial Schemes of the Government.

Some voices:- He is speaking on both.

***Mr. S.L.Saraf:-** Sir, I was stating that measures adopted previously benefited only a particular section of people. But, now such measures would be aimed at benefiting the entire population of the country which comprises the inhabitants of the rural area as well as the towns. The Constitution presented before the House shall guarantee all the opportunities of progress to each and every individual in the State.

Some Hon'ble Members have expressed their views with regard to the "Right to work". Although this point has not been clearly explained in the Draft Constitution, it does not at all mean that we do not recognize this right. We realize the necessity of taking under our control all means of production and also of managing the distribution of our produce: but at the present juncture, such measures are likely to create chaos in the country and impede our progress. Therefore, that we should take such measures as would benefit not the individuals but the country as a whole. I am confident that the Draft Constitution would fulfill all our aspirations.

The leaders of the country we are acceding to is giving a lead to the politicians all over the world. It is they who can guarantee progress of our country. We want to do away with all sorts of exploitations and to see that our country achieves progress in the real sense of the world.

I congratulate our leader and our respected friends who have expressed their pleasure in seeing the Constitution passed. I hope the House would adopt it.

***Mahasha Nahar Singh:-** Sir, I would like to submit a few words in the support of the Report of the Drafting Committee which is before the House. As already stated by Hon'ble Saraf Ji, the National Conference stood by its principles even at the time when it foresaw a great danger for the country. It overcame all the difficult situation and saved from danger not only the State but India also. Our Muslim friends displayed courage and tackled the situation very well. Although we know that some people are led astray by religious feelings when an issue is put before them in a communal spirit. Our friends fought with courage the reactionary ideas disseminated by people holding a different outlook. Some people said that Kashmir should be declared an independent State and others

opposing this reiterated their stand to accede to the Indian Union. I congratulate the members who did not fall prey to communalism and who supported Kashmir's accession with India.

This report has been submitted according to the programme of "New Kashmir" which the National Conference had put before the people of the State.

Why did Sheikh Sahib change his outlook?

Some people say that the change in his outlook and attitude was due to his reaction to Praja Parishad Agitation and Dr. Shyam Prasad Mukherjee's visit to Kashmir. But it could be wrong to think in these terms. A leader like Sheikh Sahib did not act wisely in parting company with the National Conference which commands respect through India. Communalism exists everywhere both in India and Pakistan. Now, if we take it for granted that communalism is existing in India because of its being inhabited by Sikhs, Hindus, Muslims and Christians etc. Why should it find its place in Pakistan where they claim to have only one community of Muslims? If there exists no communalism, in Pakistan why should they let loose repression on the Mirzai sect?

I may submit that compared with our State there have been massacres on large scale in Pakistan.

The structure of the Constitution which has thoroughly been discussed and on which we are taking a decision has been fully considered by the Drafting Committee. Certain people foresee danger in the coming of such people from India to Kashmir as are in a position to purchase and monopolize large factories and agriculture lands. I admit that it would be essential for us to impose restriction in this behalf, and I think such restrictions have been provided for in the Draft Constitution. However, it has not been cleared whether the period of this restriction will begin from the Samvat year 1926 or 1952 or from the Samvat year 1971-72 or from any other date.

Sir, there are also instances in which Girdawari is not conducted for years together. This point has not also been cleared. The Government should after full consideration frame a law whereby the people who, as a matter of fact have been residing in the state, since long but who legally have no proof of their being

Permanent Citizens of the state, should be declared as the state subject. For example, there are nomads who have been residing in the state for a pretty long time but who have no proof of their being Permanent State Subjects. We should, therefore, frame such laws as would enable them to become the State Subjects.

As regards the laws framed by the National Conference Government I hope these would guarantee equal status to every citizen of the State.

Sir, there are a number of wells which certain people, such as Harijans, are not allowed to use. The people who check them from using these should be legally dealt with. At a number of places individuals have constructed wells in their own premises. In absence of other wells in such localities people in general face difficulties for want of water. The law should, therefore, permit the use of these wells by the people.

Sir, it is clear from the report of the Drafting Committee that all the restrictions imposed on Harijans, will be removed by the Constitution and that every possible efforts will be made to provide employment to the unemployment. But as regards the time limit for such measures it would not be right to say that it will take fifteen years to set every thing right. If the Government has an intention to do some thing in this direction. It should be given immediate effect. I do not agree with what has been termed as “ gradual progress” Sir, all the necessities of life sell at cheap rates in India but in our State we get them on higher rates due to the Customs Duty being levied on them. The Hon'ble Prime Minister has announced that Customs Duty will be abolished in the near future. I think the Prime Minister and the House for their promise to end this nuisance. This well benefit the people to ban the export from the State of the commodities, for instance, Vanaspati Ghee is consumed In India, But in the State pure Ghee is used, If ban is not imposed on its export we shall not be able to get pure Ghee in the market. I hope my suggestion will be considered and the export and import of such articles would be banned. With these words I support the Report submitted by the Drafting Committee.

Mr. Ghulam Mohi - ud-Din Hamdani:- Sir we have been discussing for the last few days that part of the constitution which pertain to certain important issue with

regard to the accession of the state with India. Before this part of the constitution is adopted .I would like to express my views in this behalf.

The present Draft Constitution includes decision on certain important issues viz. Jurisdiction of the Supreme Court. Citizenship, Internal Autonomy etc. But certain members seem to whisper their doubts about the citizenship rights contained in the Report. I fear we may create misunderstanding and the events of 9th August. 1953 may repeat if we do not put this issue clearly before the people, it is therefore, essential that we put every aspect of the issue before those who favour the accession of Kashmir with India.

Sir, in a federation a State vests certain powers to the centre. These powers relate to the subjects in which the State accedes with the federation. For the rest of the matters the State enjoys internal autonomy. But our being the citizens and subjects of the State and enjoying the rights in this behalf does not at all mean that we consider ourselves as victors. We do not want to deprive any citizen of India from any particular rights. All our actions in this direction have been taken in the light of special condition prevailing in this State. It is in view of these circumstances that an agreement known as the Delhi. Agreement was signed by leaders of India, namely Shri Jawaharlal Lal Nehru later Sardar Patel, Shri N.Gopalaswami Ayanger and the representatives of our State. This agreement has strengthened the relations between India and our State. So far as the citizenship rights are concerned, every citizen of the State will be called a citizen of India. But certain people, who are of a disruptive nature, do not want that Kashmir should come closer to India By Kashmir I mean the State Jammu, Kashmir and Ladakh and its people who have always been living in unity with each other I was just stating that every citizen of the State will be a citizen of India and vice versa. But the question of property and services is a deep-rooted one. Our country is basically very poor. We are a sort of hilly people. The basic reason of our poverty is the limited means of our communication. In view of this ancestors always protested against the influx in to our State of rich people, who they apprehended, were in a position to tempt the poor inhabitants with money, take undue advantage of their poverty and thus deprive them of their property. I

remember, the days when the late Assembly had passed a law permitting a cultivator to sell some portion and the land possessed by him. Consequent upon this legislation a peasant had begun selling whole of his land in order to meet the expenditure of his daily needs and on the occasions of marriages and other celebrations. Had this practice not been stopped the result would have been obvious.

Sir, the special privileges granted to the residents of the State should not be evaluated in terms of our victory in achieving the citizenship of India. We should know that this agreement is based on the give and take policy and certain understanding. Such concessions are not forcibly acquired in a federal government pleading democratic principles. To acquire these concessions one has to gain the love of the people and to appeal to the intelligences of that federation and forge unity of the people.

Sir, I may submit that by taking a wrong line of action and raising useless and dangerous slogans, the selfish saboteur and communal elements do not want to strengthen the relations between India and Kashmir. They are aiming at creating a gulf between these governments that will in no way be useful to any individual. Similarly certain things have been said in respect of jurisdiction of the Supreme Court. I shall once again submit that it is already within the jurisdiction of the Supreme Court to interpret the issue viz. fundamental rights. The constitution, the dispute regarding the relations between India and Kashmir, the disputes between one State and other. The issue pending decision was that of the criminal and civil jurisdiction in respect of appeals, which if exercised by the Supreme Court would in no way have any adverse affect on the country. This jurisdiction would be in respect of the case filed by individuals. For example, a Sessions Court awards a sentence of life imprisonment to a criminal and the criminal; feeling aggrieved prefers an appeal to the High Court, which subs and the criminal quietly awards death sentence to the criminal. The only course left forth criminal is to move the Supreme Court in the matter.

The interne matters excluding the three subjects of accession shall be death with by our Legislature, which shall frame laws in respect of these matters. The Supreme Court shall not intervene in these matters.

There has been some misunderstanding among a section of the people in respect of the Supreme Court, but actually our judiciary shall be more independent as a result of the jurisdiction of the Supreme Court over it. Besides, our lawyers shall also be very particular about the laws, which the Indian legislative enacts from time to time. Our people will also know that there is a court in India that is supreme to all other courts, with which they can file appeal in important cases. Moreover courts will also be cautions in their work Sir, in the end I want emphatically to commend the measure taken to safeguard the internal autonomy With these words I support the Draft Constitution.

Mr. Hem Raj Jandial:- Sir, every citizen of the State has high hopes about the Report of the Drafting Committee. Since the year 1947, when our State acceded to India people at time-apprehended danger in respect of this accession. It was on the eve of the election of the State Constituent Assembly that these doubt removed when the National Conference issued its election manifesto. This manifest had declared that this Assembly would determine the relations between Kashmir and the Indian Union had also decided about the future of the State.

A State of uncertainty I our country and the minds of certain people were confused. What the people of the State apprehended came clearly before us in the year 1953, when all the dangers in their clear shape came before the people of the State as well India. The National Conference leadership fought courageously the crisis created by these dangers. Ample slight has been thrown on the measures then taken by the leadership of National Conference. At that time people apprehended that some quarters may not raise the slogan in which of independence of Kashmir or the Valley of Kashmir. This was a slogan on which people could not express their satisfaction. All the same it would eventually have its reaction in every part of State. If slogan for accession of Jammu and Ladakh with India would have repeated which were fought courageously by the National Conference in the year 1947. But today on the country we are giving

definite shape to the question of our accession with the Indian Union. We are definitely removing those doubts, which had found their place in the heart of the people. In this report we are making clear-cut recommendations with regard to our relations with India. The events, which forced us to call India for help, are known to every one. We cannot forget the hand of help extended by India towards us. India would definitely continue to help our country

The fact by acceding to India we can make tremendous progress is also in our view. The schemes for development taken in our country are in conformity with those sanctioned by Government of India for the Indian people. Therefore, we shall not lag behind in achieving progress side by side with the Indian people. India is a country of vast resources and it alone can guarantee our progress.

We are fulfilling our duty today and therefore our leadership deserves congratulations. Whatever we are deciding today shall be based on equality. By this decision every citizen shall be given equal opportunity of progress. This Constitution will provide for the right of employment to every citizen of the State. As you know the autocratic regime had debarred certain communities from the right of purchasing lands. This was really an injustice. Now every citizen out of forty-lakh population has a right to take up employment, purchase or acquire land for agriculture purposes, and take equal part in commercial enterprises. We find many good things in the second part of the Constitution. By setting up the Public Service Commission and by extending the jurisdiction of the Supreme Court to the State it will be evident how people have given every opportunity of progress: every individual shall be able to get employment on the basis of merit. This Draft Constitution fulfills all our aspiration and hope. Besides the abolition of Customs Duty and taking up of economic plans will show how particular our House is about the economic reconstruction of the country.

The Report presented explains every aspect of the Constitution and it is hoped that this Constitution will fulfill all the promises held out to the people by the National Conference in its programme-----New Kashmir.

Sir, with these words I support the Draft Constitution.

***Mr. Chuni Lal Kotwal:-** Sir, I beg to move the following amendment to the Report of the Drafting Committee: -

“At page 2 of the annexure to the report of the Drafting Committee for sub-clause (d) of clause (4) the following sub-clause should be substituted”: -

(d) In Article 19 for a period of five years from the application of these Provisions to the State”: -

- (ii) (i) In clause (3) and (4) after the words “ in the interest of” the word “ the Security of the State” shall be interested; (ii) in clause (5) for the words “ or for the protection of the interests of any scheduled tribe” or for the purpose only of sub-clause (d) of the said clause, in the interest of the security of the State” shall substituted; and the following new clause shall be added, namely: -

“(7) The words “ reasonable restrictions” occurring in clauses (2), (3), (4) and (5) shall be construed as meaning such restrictions” as the appropriate

Legislature deems reasonable”

*** Ram Lal:-** Sir, we have not so far received the copies of the amendment

***Mr. President:-** I would request the Hon’ble mover to keep the amendment in abeyance till copies of the amendment are supplied to all the members. Discussion on the main report will continue for the present. Cheers.

Mr.Ghlum Mohd Bakhshi:- Sir, the reports submitted by the Basic Principles and fundamental Rights Committee have been under discussion for the last one week. Almost all the members of the House have expressed their opinion about the different aspects of the Constitution, and I think need not speak any thing more and thus take further time of the House. The important matters to which special attention has been given in these reports are Citizenship Rights. Fundamental rights. Basic principals and the jurisdiction of the Supreme Court. All these matters have been given a final shape in the Draft Constitution. And the

learned mover and the Hon'ble members have clearly explained what the real objective of the House is in this behalf.

So far as the fundamental Rights are concerned I may submit that only the recognition of these rights will serve no purpose unless it is guaranteed that whatever rights and recognized shall be enforced. It was, therefore, essential that Supreme Court must have jurisdiction in the enforcement of these rights. Had not the jurisdiction of Supreme Court been extended to our State mere recognition of fundamental rights would have been of little use to the people of the State. Some members of the House have shed light on the various aspects of the Draft Constitution. From my point of view, it has two prominent features; firstly, it ratifies and makes our accession to India complete; and secondly, it secures and guarantees of Citizenship Rights of the people of the State by their incorporation in the State Constitution as also in the Constitution of India. This Constitution will govern our present as well as future legislations. This House and the National Conference party have expressed their opinion in this behalf. Now it remains with the members of this House to do away with untouchability and raise the standard of living of the backward section of the people by setting them on the path of progress. At the same time we wish the Constitution were not confined to paper but applied for the best interests and benefits of the country. By the word benefit. I mean the economic benefit of the people and the raising of their standard of living. Every citizen of the State should be provided with a house to live in with employment and two square meals a day, and with clothes to put on: and every citizen should be protected against exploitation as has been emphasized in the Constitution.

As regards the Directive Principles they have been explained clearly. For the running of the Government these directives have been issued and programme for betterment of the country chalked out. Our economic condition can prove only when planning is made on correct lines and the education in respect of planning imparted. By this Constitution we have guaranteed every individual of the State, what ever his caste, creed or regions that he shall have freedom of his religion, customs and way of living. He shall be protected against

aggression by any other community whether in majority or in minority. All these guarantees are the base of the Constitution and shall set our country and its people on the path of progress.

Today this very Report is before the House for its approval, and it is up to the House to adopt or reject the same. Today I feel that the various sections and clauses of our Constitution are being written not in any ordinary ink but in the very blood of thousands of old men, young men and children shed in 1947. The same blood forms the ink used in writing our new Constitution. The blood on the one hand came from martyrs like Sherwani, Brig. Rajindra Singh, Col. Roy, Maj. Sharma, Brig. Usman and thousands of valiant fighters of Indian Army and Air force and other from the youthful crusaders of Kashmir National Militia, Home Guards and Volunteer Corps, namely Ismail, Zadoo and Abdul Aziz. The biggest guarantee for this Constitution is the blood of these martyrs. These heroes did not shed their blood for their selfish motives but for the defence and progress of the country. It is today that I see their sacrifices bearing fruit and their aspirations and ideals being realized. The Constitution that we are giving to our country has the sanction of the sacrifices made by our martyrs. There are also certain responsibilities that devolve upon us and I am confident that the Hon'ble members of this House fully realize that they have to shoulder their responsibilities and fulfill the promise made to the people. By acceding to India we have fulfilled the promise we had made in the House. No power on earth can alter this decision of ours (cheers). I would like to warn the interested powers that the Kashmiris should not tolerate any pressure from whatsoever quarter it may come. We are to our words. We have acceded to India once for all and we mean to stick to our decision. The people of Kashmir have extended their hand of friendship and now it is the duty of the Indian people to reciprocate in the same spirit. God forbid, if our relation becomes weakened the Indian people will have to suffer. It is not the duty of the Indian Government alone but of the progressive force of that country as well to strengthen this bond of friendship between Kashmir and India.

Sir, our decision regarding our accession to India has caused great consternation in certain quarters. Pakistan and some great benevolent powers are particularly perturbed and cannot hide their displeasure. On the one hand Sir Mohammad Zafarullah Khan says that our Constitution Assembly has neither any locus stand nor any sanction behind it, If he actually believes what he says, this House is not an authoritative body. What after all is the cause of his worries and anxieties? If he declares that the House does not represent the country and has no right to frame its Constitution. What makes him fret and fume and why does he seek the protection of the Security Council. It is an unique logic and beyond my comprehension. The Prime Minister of Pakistan today challenges the sovereignty of this Assembly. I would like to put a few questions to him. We abolished the hereditary rule of the Maharaja and why did not he challenge that decision. We death a heavy blow to feudalism and carried out radical land reforms but why did not he challenge that decision of ours. It is only now when we are finally taking a decision regarding our accession that he is challenging our decision. There is some thing fishy about it. The fact of the matter is that their dreams regarding Kashmir have not materialized at all and hence their anxiety opposes every decision that we take. They have seen that every weapon they used against us has failed to achieve the desired objective. They raided our country in order to capture it but were hurled back. Their mailed first was twisted and failed to attain the purpose. Thereafter appeals were made to the people in the name of religion and geographical considerations. People were told that since the rivers of Kashmir flowed into Pakistan. Since its territory was contiguous to Pakistan. Since its roads led to Pakistan and since it had a predominantly Muslim population. They had right to annex Kashmir. But to these arguments we gave a reply. Our reply was that if these considerations formed the basis of accession of one country to another why should not Pakistan annex Iran and Afghanistan. But they know that Iran and Afghanistan are independent countries. They could not succeed in their designs. They wanted to capture Kashmir. When they failed to carry conviction with the people of Kashmir they knocked at the doors of the Security Council. There they sought the help of the

very same powers. Who had been instrumental in the division of India? It was through their good offices that Muslim League got Pakistan. But I would like to tell them through this House that today the English do not rule India and if they wanted to have Kashmir under such circumstance they should have won the support of the people's representatives who are sitting in this House today and have now given their final verdict. The rulers of Pakistan are today crying themselves hoarse and raising the slogan of plebiscite. Plebiscite was not their slogan but ours. The Late Mr. Liaquat Ali Khan spurned the offer of plebiscite made to him by Pt. Jawaharlal Nehru during their conference at Lahore in March, 1948. In September 1948 the offer was made again but it was not accepted. Again, it was repeated in December 1948 but again it was rejected. We could not go on waiting forever. We announced our decision to convene a Constituent Assembly. The people of the country were given a chance to take part in the elections. Through our announcement and manifestoes we made it clear that the Constituent Assembly would finally decide about the issue of accession. No other party in the country had the strength to fight the elections. Consequently no party came into the field. It does not behove them to challenge the sovereignty of this House. The same cry is raised today once more. But now we see certain powers lining up with them. There are the powers that have their own designs on Kashmir and want to use it for their own plans. They want a State of insecurity and instability to obtain in Kashmir. If they had their way, our country would be a hot bed of intrigues. But the people of the State do not like the present insecurity to continue indefinitely. They have seen the Kashmir issue becoming more knotty in the Security Council where they expected it would be speedily solved. The Security Council treated both the aggressors and the victims alike. On the one hand was this approach of the Security Council towards the Kashmir question and on the other was the mailed fist of Late Mr. Liaquat Ali Khan who wanted to grab Kashmir by force. On his return from America he raised his fist and declared that force alone would decide the fate of Kashmir. He believed that Pakistan could annex Kashmir by sheer force. He was succeeded by Kanab Nazim-ud- Din who adopted the same tactics. He was followed by Mr. Mohd Ali.

During his trip to Delhi to see Pandit Jawaharlal Lal Nehru he said to the press that Pt. Nehru was his elder brother and that he wanted to get Kashmir from Mr. Nehru as a gift. When asked what he meant by gift his answer was that it meant a jagir. But we have suffered under the Jagirdari system on a small scale already. If we had been unwary. Our national honour, our existence and intact our everything would have been put in jeopardy. We have demonstrated to the whole world that estate of affairs cannot continue for long. Mr Mohd Ali negotiates with Pt. Nehru to settle the Kashmir question and at the same time in Dacca and Karachi and at other places he proclaims that Pakistan is incomplete without Kashmir. It is unfortunate that Pakistan is incomplete but he wants to grab Kashmir to complete it. He wants to build office of Pakistan with our bones, blood and flesh. I say that it is impossible. This is the attitude of the whole leadership of Pakistan Mr. Gurmani. Mr. Shuaib Quershi, Mr. Qayum Khan and others. They seek to deceive the world by raising the cry of plebiscite. Their real intention is that the India force should be removed from the borders so that they may get a chance to march in and unfurl their flag on our soil and say to the world. "We have occupied Kashmir and let India go to the Security Council". Sir, we waited for long. We could not go on waiting forever. So we have had to say good-bye to this policy of waiting and giving a final shape to the question of accession. The basis of our accession is known to you and to the whole country. It is unfortunate that we did not take this step two or three years earlier. If we had done so the picture of Kashmir would have been different today. It would have gone a long way on path of progress. Much of our poverty and backwardness would have gone. But the condition was such as did not allow us to take this step so far. Now when we are taking this step it is said that we are taking this step it is said that we are mortgaging our country. Sir, it were different people who attempted to mortgage the country. We are striving for the economic advancement of the country and its people without mortgaging either. History will give a verdict as to who were the mortgagors of the country and who were not. We would not have been so heavily under debt if this step had been taken earlier. We have a heavier incidence of taxes than Bombay. Bengal and other

States of India .All these States have registered great progress in industrial as well as agricultural fields. On the country, I am ashamed at the fact that the inhabitants of our State pay taxes from their meager income earned by their sweat and blood. In these is included a tax that is a challenge to our human dignity which no self- respecting citizen can ignore. You know that if any citizen of our State crosses the Ravi and returns after just ten days the first welcome accorded to him is a challenge to his self –respect. Of course, rich people go Scot-free but poor people suffer badly. Their clothing and luggage and everything is searched. This is the sort of treatment they get at the very first outpost of our State – Lakhanpur. In the modern age people are not prepared to suffer such humiliation. Attention should have been paid towards this matter four years ago but nobody bothered about it. Our people toil at the Banihal tunnel work in Poonch, Kishtwar and Delhi and Calcutta to earn a hand to mouth living but we snatch something from it also in the form of taxes. A structure and allows such things cannot endure for long. Today we are not selling our country but are instead giving our countrymen their due rights. The present Laws regarding Custom etc need to be abrogated and we are resolved to do so. It is asked how long shall we get the subsidy. We should stand on our own legs. We shall certainly stand on our own legs but neither my colleagues nor I will allow ourselves to be swayed away by wrong slogans and choose a wrong path that might lead towards economic ruination. If we are conferring fundamental Rights on the people it is because we honour self-respect. The decision that we are taking today will, besides affording great relief. Result in a net gain of Rs.7/- per head annum to our people irrespective of whether they belong to Jammu or Poonch or Kishtwar. This is our right and there is no question of subsidy. We shall fight for our rights even if we have to lay down our lives. Today our masses have succeeded in vindicating their rights.

Sir, a lot of things have been said by several people with the object of creating confusion among the masses. But they would do well to bear in mind that the people of this State know fully well the significance of the events that took place before August 9 as well as those that took place after that date. We

are, by the Grace of God, fulfilling each and every promise that was held out to the people in the policy speech of August 9.

The decision that we have taken in this House today, most important as it is, has taken the nations of the world by storm. Interested foreign powers who have been trying to secure for Kashmir a place on the map of world according to their own wishes and now finding their hopes being dashed to the ground. Our decision has raised a tumult in Landon, New York and other capitals of the world, I sympathies with them because their dreams did not materialize, nor God willing they ever will (Cheers).

This decision has however, brought with it a great responsibility for us. For the people of this State and for our friends in India, namely, the defenses of our country, which we have to shoulder from all sides, are being hatched against us. The same Britishers who destroyed Iran, invaded Iraq and ruined Afghanistan; who entrenched themselves in the Suez by obtaining permission from the Egyptian Government for the passage of their ships through the Suez Canal and who are now refusing to evacuate from there in spite of insistent demands of the Egyptians are against raising their head and dragging Afghanistan and Turkey into military alliances. How the Britishers destroyed Turkey, Iraq and Palestine is well known to you. The forcing out of 20 lakhs of people from Palestine and rendering them homeless and the supplanting of Jews in their place is the recent history.

Mr. President:- How much time will you take;

Mr. Bakshi Ghulam Mohd:- Sir, five minutes more.

Mr. President:- We want that the debate should conclude by 2 P.M. There are some other matters also to be taken up for consideration. I would, therefore, like the sitting to be adjourned for 15 minutes so that we can dispose of the business by 2 P.M. Accordingly, I adjourn the House for fifteen minutes.

☛ **Note: -** The House met again after 15 minutes.

Bakshi Ghulam Mohd:- Sir, so far as "protection" of the rights of Muslims of the world is concerned, the big powers have amply demonstrated it in Palestine. After Palestine, they are now engaged in suppressing the resurgent nationalism

of the Asia and the aspirations of its people. In this connection there is much talk these days of the conclusion of pact designed to make Pakistan militarily strong and Washington and Karachi are speaking the same language. So far as the people of Pakistan are concerned the pact will inevitably have its repercussions on them and they cannot remain safe from it. It is not a little disquieting for us. For, just as we do not wish to lose our independence. Similarly we do not want that Pakistan should lose her independence. The pact will however affect not only Pakistan and India but also very Asian country whether big or small. It will affect Iran, Egypt, Afghanistan, Pakistan and India. At present the ruling party of Pakistan is the absolute master of that country and it can do anything it likes, but the fact remains that because of its action. Pakistan is losing her independence and sovereignty. You will see that Pakistan cannot escape the consequences of this pact. If Egypt could not save herself from the conspiracy and mechanizations of foreign powers, how can Pakistan, which is still an infant State and for more weaker than Egypt in all respect, save herself? Compared to Pakistan Egypt is more powerful and advanced in all respects, and yet despite years of ceaseless struggle she has not succeeded in driving out the conspirators. I am afraid Pakistan might have to meet the same fate.

So far as the Asian people are concerned they are not unaware of it. They are alive to everything. The people of Asia fully understand this challenge and they will do everything that is in their power to meet the challenge.

“The prime Minister of Pakistan has said:” Militarily strong Pakistan means solution of the Kashmir problem”. If he is entering into pact with this object in view and in the hope that by becoming militarily strong Pakistan can annex Kashmir then I would humbly inform him that he is gravely mistaken in this calculation. This kind of thing has happened more than once in the past. Only two years ago a foreign power. Professedly sympathetic towards us, suggested that in order to facilitate solution of the Kashmir dispute, India and Pakistan troops should be withdrawn from here and they should be replaced by troops of neutral nations. You know very well who these neutrals are. They are the same people who have imposed their domination not over one nation but over dozen

troops to enter our territory no matter what their number. While we are happy at the successful consummation of our cherished desires and as the fact that we are marching ahead on the path of progress, it pains us at the same time to know that our comrades and brethren who are on the other side of the Cease-fire Line are unable to share this joy. The speed with which we are marching forward and the manner in which we have traveled on the road to progress make me wish that they too were in our midst today to enjoy the benefit of our development schemes. But things will not remain the same. A day might come when we may reunite, and if they get a chance they too will not only appreciate the decision that we have taken today but will be by acting on them, also demonstrate to the world the correctness of our decision. There can be no other correct decision than the one we have taken (Cheers). When ever we think about these decisions we do not do so in terms of any force or power because we know we have no military power. Our strength lies in our determination and will, and it is on the strength of this resolute determination that we are taking these decisions. We are fully conscious of the dangers that we will have to face as a result of our decisions. Sir, we desire peace and wish that peace should prevail. This is not only our policy but of India as well. This is the policy pursued by our great leader. Shri Nehru who wants that peace should triumph in the world. On the one side there are force of peace pursuing and advocating one type of policy while on the other side are those who rely on military aid and pact and who speak in terms of force. But force alone cannot achieve everything. This is proved by the fact that a great imperialist power like England which possessed such a large army and huge amounts of arms and equipments was forced to withdraw from India by an unarmed and simple man relying not on the strength of force but on determination and will. We acceded to India six years ago. But today we are setting the seal on our accession in a constitutional manner. I expect not only from Government of India, the Hon'ble Members of the Parliament and the Indian leaders but also from the people of India that they will continue to help and support us in the same manner in which they had been extended their help and

support in the past. God forbid if they failed to help us and let us down, it will be the greatest betrayal in the world: it will be betrayal of our hopes and aspirations.

Today we are giving finality to the decision. The pressure tactics employed by big powers and the legal quibbling of Messer's Mohd Ali and Zaffrulla will not make us away in our stand. We never wave. We are not given to bowing before any power. We have extended our hands of friendship to the people and Government of India and it is up to them not to lose this friendship at any cost. For our part we have fulfilled our duties legally, constitutionally and morally. I will now beg of the House to accept and adopt the Report as presented in the House by the Drafting Committee. **(Cheers).**

Kotwal Chuni Lal:- Sir, I beg to move the following amendment to the Report of the Drafting Committee: At page 2 of the annexure to the Report of the Drafting Committee, for sub-clause (d) of clause (4) the following sub-clause should be submitted: -

(d) In Article 19, for a period of five years from the application of these provision to the State:

(i) In clause (3) and (4) after the words "in the interest of" the words "the security of the State or" shall be inserted: in clause (ii) for the words "or for of the protection of the interests of any Scheduled Tribe" the words "or for the purpose only of Sub-clause (d) of the said clause, in the interests of the security of the State" shall be substituted; and

(iii) The following new clause shall be added, namely: -

(7) The words "reasonable restrictions" occurring in clause (2),(3),(4) and (5) shall be construed as meaning such restrictions as the Appropriate Legislature deems reasonable".

*Sir, the purpose of introducing this amendment is that in this Constitution of our this basic right of the peoples of the State has been recognized that they can peacefully from different Unions and Organizations sin the State for the progress of the people and welfare of the country. This is one of the basic rights recognized in every civilized country. We have therefore, recognized the right and include it in our Constitution. The primary duty of every citizen here is to save his State from danger and preserve its security.

Sir, in view of special geographical position and present circumstances our State has a special international importance. All imperialist war mongers are greedily looking to our State. Under these circumstances an important duty crops up for us. The representatives of the people that we should incorporate such clauses in our Constitution, which can ensure the security of the State. Keeping it in view it is necessary for us to have such clauses in our Constitution, which can curb the disruptive elements law fully. But, no such clause was present in the Constitution. In view of the security, I, therefore, deem it proper that the Government should be allowed such powers so that none might dare to endanger the security of the State. So, I move this amendment and hope that the House will accept it.

Mr. Ghulam Nabi Lolabi:- Sir, I support this amendment.

Mr. Mir Qasim:- I accept this amendment.

Mr. President:- Mr. Mir Qasim.

Mr. Mir Qasim:- Sir, the report of the Drafting Committee is before the House and has been fully discussed. It needs no explanation the political awakening of the people is the true guarantee for a Constitution. When people become politically conscious they honour their Constitution. Today's Draft forms a part of the Constitution. In view of the Report submitted by the Basic Principles Committee and the fundamental Rights Committee this House had directed the Drafting Committee to give them a Constitutional shape in order to make the sections, clauses and chapters of Indian Constitution properly applicable which will stratify the relation between India and Kashmir. Now the Draft is before the House in Constitutional language. Not only does the Draft ratify our accession to India but also it contains the chapters and provisions of the Constitution of India that are applicable to our State. You must have seen in the Draft that there are not only a few provisions but also it contains full chapters like

1,2,3,5,9,10,13,14, 15, etc. etc. also. In short we had recommended the application of all such provisions, which were necessary to define the relations of a State with the centre.

In view of the special conditions prevailing in this State it was necessary to guarantee some privileges. The first question relates to the rights of the permanent residents of the State for which necessary provisions have been made in the Draft. The second privilege relates to the Rights of Citizenship. Every section or clause of the Indian Constitution adopted by us regarding Rights is quite obvious from the Draft. The people of Kashmir can enjoy the same rights as are enjoyed by the citizens of India. Here also we have given the same rights to the Indian Citizens with one exception namely that some special privileges have been received for permanent citizens of the State i.e. State Subject. I think nobody will object to it as this provision has been incorporated in view of the poverty of the State

It is obvious from the Draft that we accepted the jurisdiction off the Supreme Court over the State in all such matters it has jurisdiction in India. It has no time to waste on petty matters but big problem will come before it. In this way people of Kashmir will have the opportunities of seeking justice, as Indian citizen possesses. In this behalf. I think some baseless objections might be raised from certain quarters who wish that its jurisdiction should limited. But this is not the case. Some of the provisions have been omitted in the Draft Constitution for the reason that a Legislative Assembly is functioning here as in every other part of India. The State Assemblies have different matters to legislate upon as compared to the Central Parliament. Accordingly only such subjects as are connected with our Constitution have been including in this Draft and the matters relating to other States such as United Provinces of Madras or the Punjab find no place in it. We have, therefore, omitted all such subjects, with the exception of subjects, which we have handed over to the Indian Parliament or to the Government of India. We shall exercise jurisdiction over all the remaining subjects. Therefore you will see some of the clauses of India Constitution omitted here. Hon'ble Bakshi Sahib has already explained the political aspects of this

relation, its basis, how can we make it permanent and what are the responsibilities of the people of India in this behalf. I without touching these problems will direct my attention to the Draft Constitution. In this Draft everything has been present in a legal Language. Bakhhi Sahib has already explained the political background of the objections raised against the Draft. Possibly it may be objected tomorrow that the Drafting Committee was not competent to put forth any solid proposal with regard to accession of Kashmir to India. These people, whether they be in Pakistan or anywhere else, would recognize our leadership if we could decide it in their favour. When a plaintiff understands that the decision of the court is going against him, he does not say that he claims were weak but he satisfies himself by challenging the decision of the court, though within his mind. I would like to request that the Draft has been presented under the directions of the House. This fact has been made clear by the very speeches of the Hon'ble members and when it is adopted, this fact will become more oblivious. This Draft explains our accession to India, which has been accepted by the house as recommended by the reports of the Basic Principles Committee and the Fundamental Rights and Citizenship Right Committee. Keeping in view the special conditions of the State these provisions and clauses will be applied to Kashmir in such a way that the rights of the people of this place remain secure.

Kotwal Chuni Lal:- Sir, what about my amendment?

Mr. Mir Qasim:- I have accepted it. Sir I beg to move that the Report may be adopted.

Mr.S.L. Saraf:- Sir, I second it.

Mr. Present:- The question is that the Report of the Drafting Committee, Which has been fully discussed in the House, be adopted.

☛ **Note:-** The motion was unanimously adopted amidst loud cheers.

Sardar Harbans Singh Azad:- Sir, I want to move a resolution. It reads as under:-

“Resolved that the Drafting Committee be authorized to incorporate in Clause 24 of the Annexure to the Report of the Drafting Committee Such other laws as may be found essential in the public interest”.

Sir, I would like to draw the attention of the House towards the directive principles according to which the Government have been directed to run the economic life of the country in such a manner as will not only remove the poverty of the country but will also provide work to the people. It is therefore, essential to incorporate such of the Laws in clause 24 which are beneficial to the public. The Drafting Committee if it considers proper can incorporate such laws in the Schedule. I therefore move that the Drafting Committee be empowered accordingly.

Mr. D.P. Dhar:- Sir, I am afraid there is no need to specify any time limit in the resolution. I may draw your attention to another resolution, which will soon follow. It will be clear from that resolution that the appropriate action, which will follow after the adoption of this Report, will be to authorize the State Government to submit to the Government of India a copy of the Annexure to the Report from such action, as they may consider necessary. As soon as that action is taken the period of the Drafting Committee to consider its function under the present resolution will automatically come to an end.

Mr. Sheikh Mohd Akbar:- Sir, I beg to support the resolution moved by Hon'ble Harbans Singh Azad.

Mr. President:- The question is that " the Drafting Committee be authorized to incorporate in clause 24 of the Annexure to the Report of the Drafting Committee such other laws as many be found essential in the public interest. Note: The motion was adopted.

Mr. President:- Mr. Dogra;

Mr. Gridhari Lal Dogra:- Sir, I beg to move the following resolution:

" Resolution that (a) having adopted the Report of the Drafting Committee this day, the 15th February, 1954; and (b) having thus given its concurrence to the application of the provisions of the Constitution of India in the annexure to the aforesaid report. This Assembly authorizes that Government of the State to forward a copy of the said annexure to the Government of India for appropriate action."

Sir, it is essential that the Report of the Drafting Committee, which the House has passed just now, should be got incorporated in the Indian Constitution. In this connection the president of India may possibly issue a decree under Art.570. This recommendation shall become a part of the Indian Constitution according to the provisions of his decree. Unless this decision of ours becomes a part of the Indian Constitution, we cannot regard our work to have been completed. In certain circles it is said that the National Conference is instrumental in making the accession of Kashmir to India possible. They further say that else where also people live, but I would like to submit that people couldn't be same any where.

Mr. D.P.Dhar:- Sir, the resolution which the Hon'ble member has moved is rather simple, namely that the Government of Jammu and Kashmir be authorized to communicate the Report to the Government of India for enforcement. The resolution is only on that point. The Hon'ble members are referring to such points as are not relevant to this resolution.

Mr. Girdhari Lal Dogra:- I think it is necessary to throw some light on this point.

Sir, what I mean to say is that the Indian people have produced men like Gandhi and Nehru (Cheers). They got their constitution framed by their own representatives. They did not adopt any foreign Constitution. Sir, this is the guarantee for the finality of our accession. To protect the rights of our people it is essential that these recommendations be sent to Government of India for incorporating them in the Indian Constitution. With these words Sir, I move the resolution in the House.

Mr. President:- Resolved that:

“(a) Having adopted the Report of the Drafting Committee this day: the 15th February. 1954 and (b) having thus given its concurrence to the application of the provisions of the Constitution of India in the manner indicated in the Annexure to the aforesaid report, this Assembly authorizes the Government of the State to forward a copy of the Annexure to the Government of India for appropriate action”

☛ **Note:-** The resolution was adopted unanimously.

Mr. President:- Now the business for today is over and also the business for the present session. I therefore seek the permission of the House to adjourn it till such date, as I shall announce later, I think the House Permits me to do so.

☛ **Voices:** Yes Yes,

Mr. President:- So, I adjourn the House

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

APRIL 1954

Friday, the 16th April, 1954/4th Baisakh, and 2011

The Constituent Assembly met in the Assembly Chamber, Grey Hall. Jammu at ten of the O clock.

Mr. President (Hon'ble G.M.Sadiq) in the Chair;

Mr. President:- Mir Qasim.

Mr. Mir Qasim:- Sir, I beg to move: -

“ Whereas it is necessary to amplify certain provisions of the Constitution as enumerated in the annexure to the Report of the Drafting Committee adopted by this Assembly by its resolution dated 15th February, 1954: This assembly therefore accords its approval to the following amendments being made in the aforesaid annexure:

(i) In sub- clause (a) (vi)(iii) of the clause 2 of the Article 31-a after the words “cantonment or” the words “ town area or” shall be added.

(ii) Clause (c) of Article 35 should be substituted as under: - “

(c) Any law with respect to preventive detention in force immediately before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954 in the State of Jammu and Kashmir and any law with respect to preventive detention hereafter enacted within a period of five years from the commencement of the said order by the legislature of the State shall not be invalid on the ground

that it is in consistent with or takes away or abridges any of the rights conferred by part-III of the Constitution.

(iii) In article 250 for the words “to any of the matters enumerated in the State list” the words “also to any matters not enumerated in the union List” shall be Substituted; and

(iv) In article 295 references to the commencement of this Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954.

This Assembly further authorizes the Government of Jammu and Kashmir to communicate the above mentioned amendments to the Government of India appropriate action. Sir in its last Session of Constituent Assembly passed certain resolution contained in an annexure embedding recommendations regarding the application of certain items of the Indian Constitution. The purpose is that this provision with the modifications should be applied to the State of Jammu and Kashmir by the president of the Indian Republic. From the drafting point of view it is felt that some changes in the language are necessary. For instance in Art, 31-A of the Indian Constitution, it is provided that the Government can acquire any land in any manner and as such acquisition of land is governed by the provision of compensation. It is fact that in this article the words used is “estate”. The definition of the terms land has been dropped and it was merely a typing mistake. But we thought it fit that even this small amendment should not be made without the approval to this House. Hence the amendment: After the word “cantonment or” the word “ town area or” shall be added Like wise in Art250, the following amendment is made: For the word “ to any of the matters enumerated in the State list” the words “ also to any matters not enumerated in the Union List” shall be substituted. Thus there are certain entries in the Union List, which fall within the jurisdiction of the State Legislative Assembly I therefore; it is considered necessary that for the words “ to any of the matters enumerated in the State List” the words “ also to any matters not enumerated in the Union List” should be substituted.

Note:- The star mark indicates that the speech was delivered in Urdu and the English translation thereof has been incorporated in the debates- Similarly in Art.295 the words “ commencement of the Constitution” occur, but in the State of Jammu and Kashmir these words will mean the commencement of the Constitution Application order which will be passed on the recommendation of this House. Besides we propose to amend Art. 35. According the old draft this House, while functioning as the Legislative Assembly, had the right to make laws for preventive detention. But, in the light of recommendations of this House, it was felt that if it remained permanently on this Statute Book it would mean perpetuating preventive detention laws even if they were of a draconic nature and imposed restrictions on the freedom of the citizens. The intention of this House has never been such. If in view of the extraordinary circumstances some restrictions had to be imposed, it would be better to fix some time limit. There should not be such laws, which impose perpetual restrictions. It is, therefore, recommended that the law should not be permanent and even if it is considered necessary to keep it alive for five years, it should be enacted for that period only. The other amendments have no specific purpose. However, section 53-C has a definite motive and it is that the Preventive Detention Act should not remain in force forever but for five years only.

Mr. President:- The question is that the motion by Hon'ble Mir Qasim be passed. Hon'ble Members favoring the motion may say 'yes' and those it may say 'Nay'

☛ **Note:-** The motion was adopted.

Mr. D.P.Dhar:- Sir, I request that a little time may be given to me to move the appropriate motion.

Mr. President:- In that case we shall take item No.3 first.

Mr. President:- Hon'ble Girdhari Lal Dogra;

Shri Girdhari Lal Dogra:- Sir, I move that “ (a) This Assembly do accord its sanction to the estimates of expenditure of the Assembly amounting to Rs4, 69,400 for the years. 2011 as shown in the enclosed statement prepared by the

Finance Committee under section 74 (1) of the Rule of Business and Procedure of the Constituent Assembly.

(b) This Assembly also accords its sanction to the extra grant of Rs 16,000 to supplement the Assembly T.A. and Contingent grants for.

Sir, the details of these estimates have been given in the Appendix A. The T.A. and Contingent grants had to be supplemented by Rs. 16,000 as various committees held their sittings in connection with the framing of Constitution. I hope that the House will accord sanction to it.

Mr. Ghulam Rasul Renzu:- I support the motion.

Mr. President:- The question is that “ (a) this Assembly do accord its sanction to the estimates of expenditure of the Assembly amounting to Rs.4, 69,400 for the year S. 2011 as shown in the enclosed Statement prepared by the Finance Committee under Section 74(1) of the Rules of Business and Procedure of the Constituent Assembly:

(b) This Assembly also accords its sanction to the extra grant of Rs. 16,000 to supplement the Assembly T.A. and contingent grants for the years S 2010. The Hon'ble Members in favour of the motion should say 'Aye' and those against it should say 'Nay'

☛ **Note:-** The motion was adopted.

Mr.D.P.Dhar:- Sir, I move that this Assembly propose name of Pt. Anant Ram for being chosen as a representative of the State of Jammu and Kashmir in the Council of States and request the Government of Jammu and Kashmir to send a recommendation to the President Indian Republic accordingly.

Sir, according to the Constitution a number of seats fall vacant on the basis of rotation and in this connection one seat of a representative of the J&K State has fallen vacant. It is therefore, required that we recommend a person to the Government. I hope that the House will give its approval to the same proposed by me in this behalf. His personality experience warrants that we accept him once again as our representative in the Council of States.

Mr. President:- By the way, is the Hon'ble Members quite sure that the words of his motion is in accordance with the Constitution and also in accordance with the print order of this House?

Mr. D.P. Dhar:- Sir. As far as the Constitution is concerned, I am certain that the motion is perfectly in order. I would refer you Sir, to the Constitution Application Order of 1950 according to which the Articles 80 and 81 have been applied to the State Subject to this modification:- (reads out) “ that the representatives of the State in the Council of States and the House of the People shall be chosen by the President with consultation of the State” Ordinarily the right to send a representative either to the House of the people or the council of the State rests with the government in as much as the president will consult the government who will represent the people. This has been the practice of the government and the constituent Assembly shall be fully consulted to enable to them to recommend to the president of the republic of India the proposed names for the House of the People or the Council of States

Mr. President:- So far the language of this motion is concerned, I think the Hon'ble Member has framed his motion in haste. It is, therefore, that the copies thereof could not be made available to the Hon'ble Members. Now I will read out to the House so that the Hon'ble Members may understand it fully. I move “ This Assembly propose the name of Pt. Anant Ram for being chosen as representative of the State Jammu and Kashmir to send recommendations to the President of the Indian Republic accordingly”.

Sardar Harbans Singh Azad:- Should the Hon'ble mover now move the motion in the proper form?

Mr. President:- It was moved in the same form. As far as my observations are concerned I asked the Hon'ble mover if he was certain that the language of his motion was in accordance with the Constitution as well as the practice adopted by this House in this connection. The Hon'ble mover has said that the Government was authorized to propose any name for the membership of the Council of States and the House of the People and that there was nothing in the law which made it obligatory on the Government to bring this matter before the

Constituent Assembly. May be it so? But so far as the Constitution is concerned; it has been interrupted in this House some time back. The method laid down is that the House should elect the members for the Council of States, and the House of the People and thereafter the Government should recommend them. In 1952 a similar was moved in the House. It read: - "This Assembly proposed the name of the following persons for being chosen by the representatives of the State of Jammu a Kashmir for the two Houses of Parliament of India and authoresses The Government of Jammu and Kashmir to make a recommendation to the President of the Indian Republic in accordance therewith" Thus I think that the language of the present motion is not quite similar to.

Mr.D.P.Dhar:- Sir, my submission is that you have referred to the previous practice and if we read the motion carefully we find the word " Proposes" occurring there. As a matter of fact neither we nor Government of Jammu and Kashmir is competent to nominate the representatives of this State to either of the House of the Parliament of India. It is the President who nominates the members in consultation with the Jammu and Kashmir Government. I may submit that previously this House had proposed four or six persons to the two Houses of the Parliament. In this resolution too the word " proposed" has been used.

S. Harbans Singh Azad:- That is formal.

Mr. D.P.Dhar:- To cut short the discussion I substitute the word "authorizes" for the word " requests".

Mr. President:- I think that will be proper;

Mr. D.P. Dhar:- Sir. in that case will you permit me to read out the motion as amendment, "This Assembly proposes the name of Pt. Anant Ram for being chosen as a representative of the State of Jammu and Kashmir and authorizes the Government of Jammu Kashmir and to send recommendation to the President of the Indian Republic accordingly".

Mr. President:- Now the question is that: (Repeats the above motion)

☛ **Note:-** The motion was adopted.

Mr. President:- With this ends today's business of the Constituent Assembly. Now I seek the permission of the House to adjourn the House till such time as well be announced later.

☛ *Note: The House agreed and adjourned sine die.*

APPENDIX 'A

JAMMU AND KASHMIR CONSITUTENT ASSEMBLY , JAMMU

FORM B

Major Head: G-9

Minor Head : Constituent Assembly Samvat:2011

Primary Unit	Detail	Amount
Pay of Officers.	Hon'ble President at 1.000 P.M. (excluding) Car Maintenance allowance debited to T.A. grant	12,000
	Dy. President at 400 P.M.	4,800
	Secretary (500- 25-600- 40-800) his personal pay in the Session Judge's grade)	9,440
	Joint Secretary (400-25-500-40-700)	5,900
	Under Secretary (200-20-300-25-400)	4,045
	Private Secretary (200-20-300-25-400)	3,220
	Watch and Ward Officer (150-15-300)	2,425
	Marshal (150-15-300)	2,280
	Total	44,110

Pay of Establishment:

2. Assistants for Constitutional Branch	
3. in (150-15-300)	4,525
4. Chief Reporter (150-15-300)	2,460

5. 1. Senior Translator (150-15-300)	2,280
6. 1. Legislative Assistant (150-15-300)	2,250
7. 2. Special Grade Translator (120-8-200)	3,056
8. 3. Special Grade Reporters (120-8-200)	5,208
9. 3. Translators (100-7-135-8-175)	4,118
10.5. Reporters and Stenographer(100-7-135-8-175)	7,728
2 Head Assistant (100-7-135-8-175)	3,560
1 Accountant (100-7-135-8-175)	1,492
1 Librarian (100-7-135-8-175)	1,424
1 Reporter-cum-Translator (Ladakhi) (100-7-135-8-175)	1,334

Primary Unit	Details	Amount
	1 Cashier (70-6-130)	1,235
	1 Junior Stenographer (70-6-130)	1,104
	1 Asstt. Librarian for Jammu (70-6-130)	1,176
	7 Senior Assistant (70-6-130)	7,123
	1 Watch and Ward Assistant (70-6-130)	960
	3 Junior Assistant (60-4-100)	2,304
	1 Stencil Writer (Katib) (60-4-100)	800
	1 Press mechanic (60-4-100)	800
	1 Car Driver (70-6-130)	1,536
	1 Dispatch Rider(70-6-130)	1,004
	1 Daftri (50-3—80)	624
	1 Jamadar (30-1-35)	404
	12 Orderlies (25-1-30)	3,877
	4 Watch and Ward Men (25-1-30)	1,292
	4 Messenger Boy (25-1-30_	1,268
	Total:	65,211
Other Allowances	Ration Allowance	3,020

And Honoraria.	Temporary Move Allowance	3,600
	Duty Allowance to	360
	Duty Allowance to Head Faresh	
	Rajgarh Palace, Srinagar.	96
	Allowance for engagement of additional	
	Temporary hands during Session	<u>500</u>
	Total:	<u>7, 576</u>

Traveling	(a) D.A. and T.A. of the Members	2,80,000
Allowance.	(b) T.A. To the staff for Office Move	14,000
	(c) T.A. on account of Tours	8,000
	(d) Maintenance of Car	<u>3,000</u>
	Total:	<u>3,05,000</u>

Primary Unit	Details	Amount
Contingencies	(a) Postage and Telegram	1,000
	(b) Telephone subscription and	
	Trunk Call charges	2,000
	(c) Other Contingencies	10,000
	(d) Improvement of Libraries	8,000
	(e) Entertainment grant	1,500
	(f) By-election grant	1,000
	(g) Constitution Club	<u>3,500</u>
	Total	<u>27,000</u>

G-29. Stationery	(a) Stationery	5,000
And Printing	(b) Printing of Proceedings etc. at	15,000
	Government and private and cost	
	Of paper	500
	(c) printing of Forms	
	Total:	<u>20,500</u>
	Grand Total:	<u>Rs 4,69, 397</u>

Rounding Plus

Rs.4,69,400

(Sd.) HIRANAND RAINA,
Secretary
J&K Constituent Assembly.

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY DEBATES

MARCH- APRIL 1955

Tenth Session

Tuesday, the 29th March, 1955/ 16th Chet, 2011.

The Constituent Assembly met in the Constituent Assembly Chamber, Grey Hall, Jammu at three of the O' clock.

Mr. President (Hon'ble Mr. G.M. Sadiq) in the Chair;

Hon'ble President:- As the List of Business indicates, it shall not take us long to finish our work for today. I would now ask Hon'ble G.L. Dogra to present the Estimates of expenditure of Constituent Assembly for the year 1955-56

Mr.G.L.Dogra:- Sir, I move that this Assembly do accord its sanction to the estimates of expenditure of the Constituent Assembly amounting to 5,06,700 for the year 1955-56 as shown in the enclosed Statement prepared by the Finance Committee of the Assembly. Sir, there is nothing particular about this Budget which more or less resembles last year's budget. Except an addition of a small amount that has been remarked for the allowances and T.A. of members, there is nothing new in this budget. Perhaps the system of allowance that is to be adopted for payment to the members is under consideration of the Finance Committee. On our part, we have tried to minimize the expenditure and it is, therefore, that we have avoided providing extra grants. I hope that the budget will be passed.

Hon'ble President:- The question is that this Assembly do accord its sanction to the estimates of Expenditure of the Constituent Assembly amounting to Rs. 5,06,700 for the year 1955-56 as shown in the enclosed Statement prepared by the Finance Committee of the Assembly.

Note: The motion was adopted unanimously and the House passed the budget.

(Budget at Appendix 'A')

Hon'ble President:- Next item. Mr. Girdhari Lal Dogra.

Mr. Girdhari Lal Dogra:- Sir, this House had last taken certain important decision in respect of the application of certain articles and entries, of the Constitution of India to our State. The recommendations of the House in this behalf had been sent to the President of India who, in exercise of the powers conferred by Clause (i) of the article 370 of the Constitution, was pleased to issue Constitution (Application to Jammu and Kashmir) Order. 1954, I lay the copy of this order on the table of the House (Appendix)

Hon'ble President:- with this today's Business comes to close and before the House is adjourned. I would like to inform you that in view of other Business that the Constituent Assembly has to taken up. I fix the next meeting on 6th April at 1954 at 10 A.M's

☛ **Note:-** the House agreed.

Hon'ble President:- Our Business for today is finished and we will now meet on 6th April. 10 A.M.

☛ **Note:-** The House adjourned till 10 A.M. 6th April at 1954.

APPENDIX "A"

Major Head: G. 9

Minor Head; Constituent Assembly

Year 1955-1956

Primary Unit	Details	Amount
Pay of Officers.	Hon'ble President at Rs. 1,000 P.M.	11,600
	1 Deputy President at Rs.400P.M.	4,600

1	Secretary (500-25-600-40-800) Personal	9,280
1	Joint Secretary (400-25-500-40-700)	6,060
1	U/Secretary (200-20-300-25-400)	4,160
1	Private Secretary (200-20-300-25-400)	3,230
1	Watch and Ward Officer (150-15-300)	2,440
1	Marshall (150-15-300)	2,360

Total: 43,770

Pay of Establishment:

2	Assistant for Constitution Branch (150-15-33)	4,570
1	Chief Reporter (150-15-300)	2,470
1	Chief Translator(150-15-300)	2,360
1	Legislative Assistant(150-15-300)	2,380
2	Special grade Translators (120-8-200)	3,020
3	Special grade Reporter(120-8-200)	5,280
3	Translator (100-7-135-8-175)	4,150
4	Reporters (100-7-135-8-175)	6,180
1	Stenographer(100-7- 135-8-175)	1,670
2	Head Assistant (100-7-135-8-175)	3,260
1	Accountant (100-7-135-8—175)	1,510
1	Librarian (100-7-135-8-175)	1,280
1	Reporter-cum-Translator (Ladhaki) (100-7-135-8-175)	1,350
1	Casher (70-6-130)	1,270
1	junior Stenographer (70-6-130)	1,130
1	Assistant Librarian (70-6-130)	850
7	Senior Assistant (70-6-130)	7,230
1	Watch and Ward (70-6-130)	990
3	Junior Assistant (60-4-100)	2,350

Primary Unit	Details	Amount
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1 Stencil Writer (Kitab)	(60-4-100)	820
1 Press Mechanic	(60-4-100)	820
1 Car Driver	(70-6-130)	1,510
1 Dispatch Rider	(70-6-130)	1,130
1 Daftri	(50-3-80)	660
1 Jamadar	(30-1-35)	400
12 Orderlies	(25-1-30)	3,900
4 Watch and Ward Men	(25-1-30)	1,300
4 Messenger boys	(25-1-30)	1,280

Total: 65,210

Other allowance Ration Allowance 2,950
and Honoraria

Temporary Move Allowance 3,600

Duty Allowance 1,610

Allowance for engagement of Additional

Hands during session 1,500

Total : 9,600

Traveling 1 Daily Allowance and T.A.
Allowance To the Hon'ble Members 3,10,500

2 Other T.A. 23,000

3 Maintenance of Car 3,000

Total: 3,36,500

Contingencies

1 Postage and Telegrams 1,000

2 Telephone Subscription and

Trunk call Charges 3,000

3 Other Contingencies 10,000

4 Improvement of Library 8,000

5	Entertainment grant	3,000
6	Bye-Election Grant	1,000
Total :		<u>26,000</u>

Primary Unit	Detail	Amount
Stationary and	1 Stationary	5,000
	2 printing	20,000
	3 Printing of Forms	500
Total:		<u>25,000</u>
Rounding:		60
Grand Total:		<u>5,06,700</u>

APPENDIX 'B'

The Constitution (Application to Jammu and Kashmir) Order 1954.

In exercise of the powers conferred by clause (1) of article 370 of the Constitution. The President, with the concurrence of the Government of the State of Jammu and Kashmir is pleased to make the following Order: -

(1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 1954 (ii) It shall come into force on the fourteen days of May, 1954 and shall thereupon supersede the Constitutions (Application to Jammu and Kashmir Order, 1950.)

2. The provisions of the Constitution which in addition to article 1 and article 370, shall apply in relation to the State of Jammu and Kashmir and the exception and modification subject to which they shall so apply shall be as follows:-

1. The Preamble.
2. Part I: To article 3, there shall be added the following further proviso namely:-

“Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that

State shall be introduced in Parliament without the consent of the Legislature of that State”.

3. Part II: (a) This part shall be deemed to have been applicable in relation to the State of Jammu and Kashmir as from the 26th day of January 1950.

(b) To article 7, there shall be added the following further proviso namely:-

“ Providing further that nothing in this article shall apply to a permanent resident of the State of Jammu and Kashmir who after having so migrated to the territory now including in Pakistan, return the territory of that State under a permit for resettlement in that State or permanent return issued by or under the authority of any law made by the Legislature of that State, and every such person shall be deemed to be a citizen of India”.

4. Part III: - (a) In article 13, references to the commencement of the Constitution shall be construed as reference to the commencement of this Order.

(b) In clause (4) of the article 15, the reference to Schedule Tribes shall be omitted.

(c) In clause (3) of article 16, the reference to the State shall be construed as not include a reference to the State of Jammu and Kashmir.

(d) In article 19, for a period of five years from the commencement of this order:

(i) In clause (3) and (4) after the words “ in the interest of” the word “ the security of the State or” shall be inserted”

(ii) In clause (5) for the word “ or for the protection of the interests of any Schedule Tribes” the words “ or in the interests of the security of the State” shall be substituted; and

(iii) The following new clause shall be added. Namely: -

(7) The words “reasonable restrictions” occurring in clause (2), (3), (4) and (5) shall be construed as meaning such restrictions as the Appropriate Legislature deems reasonable.

(e) In clause (4) and (7) of article 22 “for the words” Parliament, the Words “ the Legislature of the State” shall be substituted.

- (f) In article 31, clause (3) (4) and (6) shall be omitted: and for clause (5) there shall be substituted the following clause, namely: -

“ 5 Nothing in clause (2) shall effect-----

- (a) The provision of any existing law: or
- (b) The provisions of any law which the State may hereafter make-
 - (i) For the purpose of imposing or levying any tax or penalty; or
 - (ii) For the promotion of public health or the prevention of danger to life or property: or
 - (iii) With respect to property declared by law to be evacuee property.
- (g) In article 31-A, the proviso to clause (1) shall be omitted; and for Sub-clause (a) of clause (2) the following sub-clause shall be substituted, Namely: -
 - (a) “Estate” shall mean land which is occupied or has been let for Agriculture purpose or for purpose subservient to agriculture, or for pasture, and include-

- (i) the site of any buildings and other structures on such land:
 - (ii) Trees standing on such land;
 - (iii) Forest land and wooded waste;
 - (iv) Area covered by or fields floating over water;
 - (v) Sites of jandars and gharats;
 - (vi) Any jagir, inam, muafi or mukarrari or other similar grant; but does not include-
 - (i) The site of any building in any town, town area or village abadi or any land appurtenant to any such building or site;
 - (ii) Any land which is occupied as the site of a town or village; or
 - (iii) Any land reserved for building purpose in a municipality or notified area or cantonment or town area or any area for which a town planning scheme is sanctioned".
- (h) In article 32, clause (3) shall be omitted; and after clause (2) the following new clause shall be inserted, namely: -
- “(2-A) Without prejudice to the powers conferred by clause (1) and (2) the High Court shall have power throughout the territories in relation to which it exercise jurisdiction to issue to any person or authority, including in appropriate cases any Government within those territories, directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto and certiorari. Or any of them, for the enforcement of any rights conferred by this part.
- (i) In article 35-
- (j) References to the commencement of the Constitution shall be construed as reference to the commencement of this Order,
 - (ii) In clause (a) (i), the words figures, and brackets “ clause (3) of article 16, clause (3) of the article 32” shall be omitted; and
 - (iii) After clause (b), the following clause shall be added namely:-
- “(c) “No law with respect to preventive detention made by the Legislature of the State of Jammu and Kashmir, whether before or after the commencement of the Constitution (Application of Jammu and Kashmir) Order, 1954, shall be void on

the ground that it is inconsistent with any of the provisions of this part, but any such law shall, to the extent of such inconsistency, cease to have effect on the expiration of five years from the commencement of the said Order, except as respects things done or omitted to be done before the expiration thereof”.

(i) After Article 35, following new article shall be added namely:-

35-A “ Saving of laws with respect to permanent residents and their right: Notwithstanding anything contained in this Constitution, no existing law in force in the State of Jammu and Kashmir, and no law here after enacted by the Legislature of the State;-

- (a) Defining the clause of persons who are, or shall be permanent residents of the State of Jammu and Kashmir; or
- (b) Conferring on such permanent residents any special rights and privileges or imposing upon other persons any restrictions, as respects-
 - (i) Employment under the State Government;
 - (ii) Acquisition of immovable property in the State;
 - (iii) Settlement in the State; or
 - (iv) Right to scholarships and other forms of aid as the State Government may provide,

Shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this Part”

5. Part V: ss (a) In articles 54 and 55, references to the elected members of the House of the people and to each member shall include references to the representatives of the State of Jammu and Kashmir in that House; and the population of the State shall be deemed to be forty-four lakhs and ten thousand.

- (b) In the proviso to clause (i) of Article 73, the words “ or in any law made by Parliament” shall be omitted.
- (c) Article 81 shall apply subject to the modification that the representatives of the State in the House of the people shall be appointed by the President on the recommendation of the Legislature of the State.

- (d) In article 134 clause (2), after the word “parliament may”. The words “on the request of the Legislature of the State” shall be inserted.
- (e) Articles 135, 136 and 139 shall be omitted.
- (f) In articles 149 and 150, references to the State shall be construed as not including the State of Jammu and Kashmir.
- (g) In article 151, clause (2) shall be omitted.

6. Part XI: (a) In article 246, the words, brackets and figures “Notwithstanding any thing in clause (2) and (3)” occurring in clause (i). And clause (2) (3) and (4) shall be omitted.

(b) Articles 248 and 249 shall be omitted.

(c) In article 250, for the words “ to any of the matters enumerated in the State List” the words “ also to matters not enumerated in the Union List” shall be substituted.

(d) In article 251, for the words and figures. “ Articles 249 and 250” the words and figures “ article 250” shall be substituted, and the words “under this Constitution” shall be omitted; and for the words “ under either of the said articles” the words “ under the said articles” shall be substituted

(e) To article 253, the following proviso shall be added, namely: “Provided that after the commencement of the Constitution (Application to Jammu and Kashmir) order 1954, no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of India without the consent of the Government of that State”,

(f) In article 254, the words, brackets and figure “ or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provision of the clause (2)” and the words “ or as the case may be, the existing law” occurring in clause (1). And the whole of the clause (2) shall be omitted.

(g) Article 255 shall be omitted.

(h) Article 256 shall be renumbered as clause (1) of that article and the following new clause shall be added thereto. Namely:-

(2) The State of Jammu and Kashmir shall so exercise its executive power as to facilitate the discharge by the union of its duties and responsibilities under the Constitution in relation to that State: and in particular, the said State shall, if so required by the Union acquire or requisition property on behalf and at the expense of the Union, or if the property belongs to the State, transfer it to the Union on such terms as may be agreed, or in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India”.

(i) Article 259 shall be omitted.

(j) In clause (2) of Article 261, the words “made by Parliament” shall be omitted.

7. Part X11: (a) Clause (2) of article 267, article 273, clause (2) of article 283, article 290 and 291 shall be omitted.

(b) In article 266, 282, 284, 289, 299 and 300, references to the State or States construed as not including references to the State of Jammu and Kashmir.

(c) In article 277 and 295, references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

8. Part X111: (a) In clause (1) of article 303, the words “by virtue of any entry relating to trade and commerce in any of the Lists in Seventh Schedule” shall be omitted.

(b) In article 306, references to the commencement of the Constitution shall be construed as reference to the Commencement of this Order.

9. Part X1V: In article 308, after the words “ first Schedule” the word “ other than the State of Jammu and Kashmir” shall be added.

10. Part XV: (a) 324 shall apply only in so far as it relates to elections to Parliament and to the offices of President and Vice-President.

(b) Articles 235, 326, 327, 328, and 329 shall be omitted.

11. Part XV1.(a) in article 330, reference tot the: Schedule Tribes” shall be omitted.

(b) Article 331,332,333,336,337,339. And 342 shall be omitted.

(c) In articles 334 and 335 references to the State or States shall be construed as not including references to the State of Jammu and Kashmir.

12.Part XV11: The provisions of this part shall apply only in so far as they relates to:-

(i) The official Language of the Union:

(ii) The official Language for communication between one State and another or between a State and the Union: and

(iii) The language of the proceeding in the Supreme Court.

13. Part XV111: (a) to article 352, the following new clause shall be added, namely: -

“(4) No proclamation of Emergency made on grounds only internal disturbance or imminent danger thereof shall have effect in relation to the State of Jammu and Kashmir (except as respects articles 354) unless it is made at the request or with the concurrence of Government of that State”.

(b) Articles 356,357 and 360 shall be omitted.

14. Part XIX: (a) In the article 361, after clause (4) the following shall be added, namely’:

“(5) The provisions of this article shall apply in relation to the Sadar-i-Riyasat of Jammu and Kashmir as they apply in relation to a Rajpramukh, but without prejudice to the provisions the Constitution of the State”

(b) Articles 362 and 365 shall be omitted.

(c) In article 366, clause (21) shall be omitted.

(d) To article 367, there shall be added, the following clause namely:-

“(4) For the purpose of this Constitution as it applies relation to the State of Jammu and Kashmir.

- (a) References to this Constitution or the provisions thereof shall be construed to the Constitution or the provisions thereof as applies in relation to this said State:
- (b) References to the Government to the said State shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers;
- (c) References to a High court shall include references to the High Court of Jammu and Kashmir:
- (d) Reference to the Legislature or the Legislative Assembly of the said shall be construed including references to the Constituent Assembly of the said State:
- (e) References to the permanent resident of the said State shall be construed as meaning persons who, before, the commencement of the Constitution (Application to Jammu and Kashmir) Order 1954, were recognized as State subjects under the law in the State or who are recognized by any law made by the legislature of the State as permanent residents of the State; and
- (f) References to the Rajpramukh shall be construed as references to the persons for the time being recognized by the President as the Sadar-i-Riyasat of Jammu and Kashmir and as including references to any persons for the time being recognized by the President as being competent to exercise the powers of the Sadar-i-Riyasat”

15. Part XX: To article 368, the following provision shall be added.
Namely:-

“Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of the article 370”

16. Part XX1: (a) Article 369,371,373, clauses (1) (2),(3) and (5) of the article 374 and the article 376 to 392 shall be omitted.

(b) In article 372 -

(i) Clause (2) and (3) shall be omitted.

(ii) Reference to the laws in force in the territory of India shall include references to Hidayats. Ailans, Ishtihars, Circulars. Rabkars. Irshads. Yadashts. State Council Resolution. Resolutions of the Constitution Assembly, and other instruments having the force of law in the territory of the State of Jammu and Kashmir: and.

References to the commencement of the Constitutions shall be construed as references to the commencement of this Order.

(c) In clause (4) of the article 374, the reference to the authority functioning as the Privy Council of a State shall be construed as a reference to the Advisory Board constituted under the Jammu and Kashmir Constitution Act. 1996, and references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

17. **Part XX11:** - Articles 394 and 395 shall be omitted

18. **First Schedule.**

19. **Second Schedule:** Paragraph 6 shall be omitted.

20. **Third Schedule:** Form v, vi, vii, & viii shall be omitted.

21. **Fourth Schedule.**

22. **Seventh Schedules:** (a) In the Union List-

(i) For entry 3, the entry “ 3. Administration of cantonments” shall be omitted:

(ii) Entries 8. 9.33 and 34, the words “trading corporations including” in entry 43, entries 44,50 52,54,55,60,67,69,78, and 79. The words “inter- State migration” in entry 81. And entry 97 shall be omitted.

(iii) For entry 53, the entry “53 Petroleum and Petroleum products. But excluding the regulation and development of oilfields and

mineral oil resources: other liquids and substances declared by Parliament by law to be dangerously inflammable shall be substituted: and

(iv) in entries 72 and 76, the reference to the States shall be construed as not including a reference to the State of Jammu and Kashmir.

(b) The State list and the Concurrent list shall be omitted.

23. Eighth Schedule.

24. Ninth Schedule: After entry 13, the following entries shall be added, namely: -

“14. The Jammu and Kashmir Big Landed Estates Abolition Act (N0.XV11 of 2007).

The Jammu and Kashmir Restitution of Mortgage Properties Act (N0. XV1 of 2006).

16. The Jammu and Kashmir Tenancy Act (N011 of 1980)

17. The Jammu and Kashmir Distressed Debtors Relief Act
N0. XV11 of 2006).

18. The Jammu and Kashmir Alienation of Land Act
(N0. Vol. 1995).

Order No. 6H of 1951 dated: 10th March. 1951 regarding
resumption of Jagirs and other assignments of Land
Revenue etc.

20. The Jammu and Kashmir State Kuth Act (No 1 of 1978)”

(Sd/-)

RAJENDRPRASHAD

President

JAMMU AND KASHMIR CONSTITUENT ASSEMBLY DEBATES

MARCH- APRIL. 1955

JAMMU BUDGET SESSION

Wednesday, the 6th April. 1955/ 24th Chet. 2011,

The Constituent Assembly met in the Constituent Assembly Chamber, Grey Hall. Jammu at 10' clock.

Mr. President (Mr. G.M.Sadiq) in the Chair;

Mr. G.M.Sadiq (Hon'ble President): Mr. G.L.Dogra.

Mr. G.L.Dogra: Sir, I move that:

"This Assembly do accord its concurrence to the application of the following further provisions of the Constitution of India to the State namely: -

- (a) Entry 53 of the seventh schedule Union List (hereinafter referred to as the Union List) in so far as it relates to the regulation and development of oil fields and mineral oil resources:
- (b) Entry 54 of the Union List Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest:
- (c) Entry 67 of the Union list- Ancient and historical monuments and archaeological sites and remains declared by Parliament by law to be of national importance.

This Assembly further authorizes the Government of Jammu and Kashmir to communicate a copy of this resolution to the Government of India for appropriate action" Sir, the Hon'ble members of this House in particular and the people of the State in general know that this House has taken some decisions in respect of the application of some provisions and Entries of the Constitution of India to the State. We had made minimum possible Entries applicable to the State but after adopting the Application Order, we felt the necessity of seeking help in respect of some Entries from the Central

Government. We wanted to secure help from the Centre for the survey of mineral oil resources and mines. The Central Government also showed its willingness to give us such help but the correspondence with the Centre makes it clear that it cannot provide for any such expenditure here because we had not applied certain Entries and part of Entry 53. The difficulty arose because of this. The Application Order did not allow the Centre to incur such expenditure here. As soon as the matter came to our notice we wanted to get concurrence of the House for the application of certain provisions of the Constitution of India to the State. Since we want to develop our country in our own way: We want to spread a network of roads through out the State: We want to improve our means of communication: we want to industrialize our country. That is why; today we want to make proper survey of our country, which should be of final nature. The conditions prevailing in the country demand that we should immediately put our country on the path of progress so that poverty and unemployment are eradicated. Therefore, Keeping all these things in view we tried to remove the obstacles facing us. As this House is a sovereign body the Central Government cannot apply any new Entry to the State without the concurrence of this House. Besides, the Central Government do not wish to apply any new entry with out consent. Here the Jammu and Kashmir Government also does not wish to take any such step without the concurrence of this House. That is why the need of putting forth this resolution in the House has arisen. To conduct the survey of a country is not an ordinary task. Our State cannot conduct it with its meager resources. Perhaps Mr Middle Miss. All those countries did the first survey and achieved favourable results after exploiting the mines. Today, all those countries are prosperous and rank among the big powers of the world. Time demand that we should also explore different minerals in our State immediately. To achieve our goal in this respect we should either get loan from India or adopt some other way. If we fail to do it our future generations will laugh at us and remark that when the Central Government of India extend its help to all other States for the exploration of such possibilities why did not our Government request the Center for such

help. Considering these entire things we decide to bring forward this resolution before the House so that we can request the Government of India for the application of such sections to our State. The Hon'ble members of this House are aware that there are some archaeological ruins also in our State. We can neither attend to their upkeep nor can we maintain them properly. We want experienced and trained Engineers who have a thorough study of history for the purpose. So far as such Engineers are concerned their dearth even in India is potent. However. We have to insure a lot of expenditure in this respect. Only a year before a few persons were pitching their tents near Akhnoor. When they dug the ground they found certain images carved out of stone. Had the digging work been properly conducted there it would have opened a new chapter for the historians. There are many such places in Kashmir province also where excavation could be made but the question of our meager means stands in the way. As it is duty of a provincial Government to incur expenditure on canals, roads, medicines and schools, it is necessary for it to incur expenditure in this respect also. But here we have very limited means and we cannot afford to spend anything. If we do it we shall have to curtail our expenditure in respect of some other items. It is rather difficult to convince a common man that this type of expenditure is as important as the expenditure on the construction of school buildings and canals. Therefore, we have considered it proper to hand over the survey work to the Centre. The Central Government has means enough to shoulder this responsibility, which will ultimately benefit us. In this way we can attract more visitors to our State. Objections can be raised as to why we did not urge those objections when the House adopted the Constitution Application Order. I would like to say that we had no urgency then no body could force us to take such decisions in hurry. Today after full consideration we have moved this resolution to the Hon'ble members of this House for adoption. We are trying to solve all these problems. On the other hand we have to bear in mind that exploitation of minds is also an important thing because it is not advisable to depend on agriculture alone. We should think over such measures, which can eradicate unemployment from the country. Therefore it is necessary to

exploit mines and develop industries so that people are able to get more and more work. Keeping all these things in view this resolution has come before the House. The reason for shifting this responsibility to the Centre is that we cannot shoulder it. The clause (a) and (b) of the resolution obviously indicate that no charge will be made in the proprietary rights of these mines. The clause (a) and (b) of the resolution read as follows: -

“(a) Entry 53 of the Seventh Schedule Union List (herein after referred to as the Union list) in so far as it relates to the regulation and development of oil fields and mineral oil resources:

(b) Entry 54 of the Union List Regulation of mines and mineral development under the control of the Union is declared by Parliament by law to be expedient in the public interest” It will be responsibility of the Centre to develop these mineral resources. This is quite a simple thing and needs no discussion because we have taken this step, after thought and consideration. I hope that Hon’ble members will adopt this resolution. With these words I close my speech.

Mr. Assad-ullah Mir: Sir, so far as motion introduced in the Hon’ble by Mr. Dogra is concerned. It is of historical importance. Today a big procession of the people of Ghari Loharan is marching towards the Fort of Chittor under the leadership of Pt. Nehru. They are doing away after a nomadic life of the last four hundred year. Today. They are being rehabilitated. On this historic day we are also shifting a great responsibility to India. We should not bear in mind that our country can neither prosper nor can the problem of unemployment be solved unless we put our country on the path of industrial progress. It is a fact that our country has many oil fields and mineral resource. But to exploit it we must have millions of rupees. Today our country is not in position to exploit this hidden wealth. We are therefore, shifting our responsibility to the centre by adopting resolution, so that a proper survey is conducted. All the expenditure in this respect will be borne by the centre. The application of these entries to the State is very important, because the Government of India cannot ask the Parliament to make provisions for the purpose unless entry No. 53 of the

Seventh Schedule is made applicable to the State. In India this resolution will be brought before in the Parliament on behalf of Kashmir and its people so that a proper survey of mineral resources of the State is made. So far as the exploitation of these resources is concerned. It will surely raise the standard of life in this country. It will solve the problem of unemployment. On this historic occasion when we are shifting this responsibility to India we are sure that we are heading a step forward towards the economic development of our country. We have always been speaking aloud that our country has reserves of gold, silver and many other valuable minerals, which can change the destiny of this land, but we have never taken a concrete step towards their exploitation. And today the credit of shifting this great responsibility to India goes to this House.

These measures will undoubtedly revolutionize the economic State of this country with these words I would appeal the Government of India to give it a practical shape immediately. We do not want only to make these entries applicable to the State but we want experts to be sent to Kashmir immediately so that they start their survey and exploit mines as soon as possible because such measures will raise the standard of life of all the Hindus, Muslims, and Sikhs of the State.

S.Harbans Singh Azad: Sir, Hon'ble Assad Ullah Mir has rightly observed that mere application of this entry is not enough. It is more important to give it a practical shape because unless a country is industrially developed. Its mines worked, and its hidden wealth exploited, the country cannot go ahead. We have not enough lands from which our rural population can earn a living. Therefore, In order to reduce pressure on land, it is essential to pay attention towards the establishment of new industries and exploitation of mines. This is a big task, this means machinery worth crores of rupees. Our present financial and economic position cannot stand it. We have in this State mineral resource that can be exploited as our national industry and income of lakhs of rupees can be assured. Therefore, it is essential that this entry should be made applicable to our State also. After the application of this entry, the Government of India should take early steps to work out the mines and exploit the mineral

resources of the State for the benefit of the residents of this State. So far the work of archaeology is concerned it is a pity that we have not been able to locate the monuments of some of great poets and noted sons of Kashmir who played a prominent role of the history Kashmir. We do not even know as to where lies the grave of Gani, an illustrious poet of Kashmir. Moreover, there are several national monuments like Shankar Achariya temple. Martand temple. Ruins of Awantipura etc, and several mosques and other historical buildings, which are in a bad condition. It is very essential that these national monuments are preserved. It is not good for any country to remain cutoff from ancient history. I do expect from the Government of India that they would pay their attention towards it as early as possible. Preservations of old monuments is very essential for maintaining the continuity of history, I hope, after the application of the entry, all those monuments shall receive proper supervision and preservation whom the Parliament gives the status of National Monuments.

Mr.Ghulam Rasool Kraipak: Sir the purpose of moving this resolution in the House is quite obvious. I think a great step is being taken to eradicate unemployment from the country. I would like to request the Government that it should send students to get training in mining as it sends many students to receive training in many other branches such as forestry etc. No doubt this is a great thing to hand over this work to the central Government but I would like to stress again that we should send the students knowing science to receive training to mining so that they prove helpful in exploiting the immense wealth of mines and enriching the country. With these words I support the resolution.

Raja Moh'd Afzal Khan:- Sir while supporting the resolution put forth by the Hon'ble Finance Minister I would like to say this is really a very great step. As soon as the survey of different mines and mineral resources of the State is completed the work of exploiting these mines will be started. It is therefore, quite natural that the economic position of the State will improve. We can not conduct this great survey without the help of India and so we want their help. With these words I fully support the resolution.

Mr. Ghulam Nabi Lolabi:- Sir, I like to speak on the resolution moved in the House. It is being that our country has various mineral resources and if these are exploited the present position of the State will altogether be changed. We have not been able to direct our attention in this respect so far because of the paucity of funds. It was such an important thing to which we should have given prior attention. I would, therefore, like to stress that we should lose no time and shift this responsibility to the Centre and try to exploit mines wherever they are found so that we attain the full benefit and improve the economic conditions of the State. We have already acceded to India and I see no reasons as to why India should not help us. As it is one of the great measures to develop the country, the Centre should immediately take the survey in hand, which will immediately banish poverty from our land. I would like to make one more request. We have many historical monuments and ruins in our State. These are historically very important and the Centre should direct its attention to this side also. When the Centre is spending millions of rupees on other states for this purpose, it should maintain the historical monuments and archaeological ruins of our State also. It will develop us culturally.

With these words I support the resolution.

Mr. G.L.Dogra:- Sir, I want to speak something more on the resolution. I am glad to express that the vein of the speeches made in respect of this resolution clearly indicates that the House is desirous to adopt this resolution unanimously. I want to bring a few more things to the notice of the Hon'ble members. So far as the Ministry Incharge of the Archaeological Department is concerned, it has completed a portion of its talks with the Archaeological Ministry of the Government of India. They have taken some decisions. It has been decided that the archaeological monuments of the Jammu and Kashmir State be given the status of national monuments. Secondly the work of excavation is started at two or three, so that the hidden details of history and other things are known. Thirdly an advisory committee in respect of archaeological monuments be setup by the Government of India. This is an important problem and the Centre will handle it so nicely that we will all like it.

This resolution, after its adoption will be sent to the Government of India for acceptance. These decisions will do immense good to our State.

With these words I close my speech and hope that every Hon'ble member of the House will agree with me.

Mr. G.M. Sadiq (Hon'ble President): Now the question is; "This Assembly do accord its concurrence to the application of the following further provisions of the Constitution of India to the State, namely: -

- (a) Entry 53 of the Seventh Schedule. Union list (hereinafter referred to as the Union List) in so far as it relates to the regulation and development of all fields and mineral oil resources;
- (b) Entry 54 of the Union List Regulation of mines and minerals development to the extent to which such regulation and development under the control of the Union as declared by Parliament by Law to be expedient in the public interest;
- (c) Entry 67 of the Union List Ancient and historical monuments and archaeological sites and remains declared by Parliament by Law to be national importance.

"This Assembly do further authorize the Government of Jammu and Kashmir to communicate a copy of this resolution to the Government of India for appropriate action" Note: The motion was adopted

Mr. G.L.Dogra:- Sir, the Hon'ble members of the House are fully aware on the basis of such of the sections and Entries for the application of which to the State, recommendations were made, the President of India had issued a Constitution application Order, It is firstly, placed before the House by me and then it was necessary to make some changes in the Constitution Act of the State. The members of this House carefully considered the Bill when it was introduced here. The important feature of the Bill was to define " the permanent residents of the State. Besides, this House has expressed its opinion when the Delhi Agreement was adopted here. In short, the House has often expressed its desire to apply Constitution Application Order. It was, therefore, necessary to give it a legal shape. If on the one hand, it was necessary to define the status of permanent Residents. It was also necessary to remove every distinction maintained among them so far.

Besides our Legislative Assembly should be given the right to effect some changes in it whenever required. There is also section in it regarding the

privileges of the members of the Constitution Assembly. If you study the present constitution or the constitution framed prior to it you will see that no privileges were granted to the members of the Legislative Assembly except, of course, that the speeches within the House were protected. When our Legislatures set up a committee to frame the Rules of Business. It carefully studied the question of privileges of the Hon'ble Members and found that the members have no privileges. As you know our Legislature is a Hon'ble House of Legislators, it should have all the privileges which a Hon'ble member enjoy elsewhere. However, this demand of the Hon'ble members was not fulfilled so far and today when we have got opportunity we have provided a section in the Bill under which the member of this House will have the privileges equal to that of the members of the Indian Parliament.

Similarly, there are a few sections regarding the High Court. It is the demand of the High Court that such section should be included in the Constitution. If an important question of law is involved, the High Court should have the right to get the case from the Lower Court and give its opinion so that people are relieved of difficulties and unnecessary expenditure.

Similarly, it was necessary after the abolition of the Board of Judicial Advisor that the minimum limit in respect of the powers of the High Court is extended and other courts should be given the same privilege. However, keeping all these things in view these sections have been included in the Bill. In the previous constitution there is section 75 which it will not be incorrect to call fantastic. All these friends who got the chance of drafting the previous constitution must be aware of the fact that such a section was intend to maintain the vested interests. Under this section all dispute about the interpretation of the constitution could be decided only by the council and no Court be it a High Court or Supreme Court, had only any jurisdiction in this respect

The members of the House are fully aware recently such a position arose before the Legislative Assembly. The Hon'ble Speaker had to send a case for interpretation to the State Cabinet. The State Cabinet after expressing its view on the matter sent it back to the Hon'ble Speaker requesting him to interpret the points him self. The State Government has felt that to interpret any such matters does not behave the Executive. So this section was abolished. You will find such sections in the Constitution of India even now. In any section, and where there is no written constitution, convention is the same. If the Government is confronted by any such point of Law, The Government will have the right to refer it to High Court and it is the duty of the High Court to inform the Government about its decision in the matter. These were the few things I wanted to put before the House. I am sure that every Hon'ble member must have studies the Bill carefully. Therefore, without taking much time of the House, I move that the Bill be taken in to consideration

(Note: The Text of the Bill has been printed as Appendix 1)

Mr. Assad Ullah Mir:- Sir, I second it.

Mr. President:- Now the question is that “A Bill to amend further the J&K Constitution Act. 1996” be taken into consideration (Note: The motion was adopted).

Mr. G.L. Dogra:- Sir, I move that the Bill be passed.

Mr. Assad Ullah Mir:- Sir I second it.

Mr. President:- Now the question is that “ A Bill to amend further the J&K Constitution Act. 1996” be passed.

☛ **Note:** The motion was adopted and the Bill passed.

Mr. President:- Mr. G.L. Dogra.

Mr. G.L. Dogra:- Sir, I move a motion to amend the rules governing the allowances of members of the Jammu and Kashmir Constituent Assembly 2008 (vide Annexure)

Mr. G.L. Dogra: Sir, so far as the members of the Constituent Assembly were drawing Rs 25/- per diem as their allowance. They got the same rate if they participated in any Session of the Assembly or in any Committee meeting. This system of paying daily allowance has not been considered proper. Nowhere in India or in any progressive country of the world this system is considered good, because it is said to be a source of mental dissatisfaction that I think is not proper. If at any time the session of the Assembly or a Committee meeting is prolonged for some reasons it is said that the Hon’ble members have intentionally prolonged it .If you study the system in vogue in India or elsewhere in the progressive countries of the world you will see that a monthly allowance is granted to the members and whenever they have to attend any Committee meeting or the Assembly session they are paid some more daily allowance. Keeping all these things in view I have tabled this motion before the House to amend the old system and request you to adopt this motion unanimously.

Mr. S.L. Saraf:- Sir, I second the motion.

Mr. President:- Now the motion to amend the rules governing the allowances of the members of J&K Constituent Assembly, 2008 (as contained in appendix 11) is before the House. Some amendments in respect of the motion have come. I will request Mr. Chuni Lal Kotwal to move this amendment

Mr. Chuni Lal Kotwal:- Sir, I move:

“For the words and includes in the case of a session only such residence not exceeding one day immediately preceding the commencement of the session and one day immediately succeeding the end of that session’ the words and includes, in the case of a session or a sitting of a Committee, such residence not exceeding one day immediately preceding the commencement of the session or the sitting of a committee and one day immediately succeeding the end of the session or the sitting of the Committee, as the case may be ‘ shall be substituted.

Sir, I would like to request that under the existing rules governing the allowances of Hon'ble members a member would get the daily allowance for the day immediately preceding the commencement of the session or sitting of the Committee and one day immediately succeeding the end of that session or the sitting of the Committee, as the case may be. But under the new rules such provision has been made only for the session of the Assembly, and not for the sitting of a Committee. There was no such distinction before and so in order to move it I have moved this amendment and hope that the House will agree with me.

Sheikh Mohammad Akbar:- Sir, I second it

Mr. G.L.Dogra:- Sir: I accept it.

Mr. President:- Mr. Abdul Gani Trali has also proposed an amendment. He may please move it before the House.

Mr. Abdul Gani Trali:- Sir, I move the following amendment to the newly proposed Rule 3 of the rules governing the allowances of members of the J&K Constituent Assembly. 2008:-

For Sub-rule (4) of the aforesaid Rule 3, the following shall be substituted:-

“(4) Nothing withstanding any thing herein before contained compensatory allowance shall be paid to a member in respect of any period during which he remains in detention under any law for the time being in force”

Sir, the purpose of this amendment is that if an Hon'ble Member is under detention due to some reason, he should be treated in respect of these allowances like all other Hon'ble members, so long as the Hon'ble member under detention does not resign he should be considered the representative of his constituency. It is therefore, necessary to give the same compensatory allowance to the detenues during the period of detention as the other Hon'ble members get.

Sadar Harbans Singh Azad:- Sir I second it.

Mr. G.L.Dogra:- Sir, I accept the amendment

Mr. President:- The Hon'ble mover accepts the amendment moved by Mr. Abdul Gani Trali. If any body wants to speak on the amendment he may speak now.



Note: None rose to speak.

Mr. President:- The question is.

“This Assembly do accord its sanction to the following amendments being made in the Rules governing the allowances of the members of the Jammu and Kashmir Constituent Assembly.2008”.

Note:- The Rules are given in Appendix 11 alongwith the two amendments that have been adopted by the Hon'ble mover.



Note:- The motion was adopted.

(Appendix enclosed).

Mr. G.L.Dogra:- Sir, I make the following motion:-

“Resolved that this Assembly accords its approval to the extra grant of Rs6500/- under the Head G7-A “Sadar-i-Riyasat” Sumptuary allowance for the year, 2011”.

Mr. Mir Qasim:- Sir I second the motion.

Mr. President:- The motion moved. If any body desires to speak on it he may do so.

☛ **Note:-** None roses to speak.

MR. President:- Now the question is:

“Resolved that this Assembly accords its approval to the extra grant of Rs 6,500/- under the Head G 7-A “Sadar-i-Riyasat” Sumptuary allowance for the year, 2011”.

☛ **Note:-** The motion was adopted.

Mr. President:- With the adoption of the motion the business of this session ends. Now I want the permission of the House to adjourn it up to the date I will announce later. I hope the House will permit me.

☛ **Note:-** The House Agreed.

Note:- The Constituent Assembly then adjourned sine die.

APPENDIX 1

THE JAMMU AND KASHMIR CONSTITUTION (AMENDMENT) BILL, 2011.

ACTX1.XLV11 OF 2011

A bill further to amend the Jammu and Kashmir Constitution Act of 1996.

Be it enacted by the Constituent Assembly as follows: - 1. Short title and commencement (1) This Act may be called the Jammu and Kashmir Constitution (Amendment) Act, 2011, (2) Except, as herein after provided, the provisions of this Act shall be deemed to have come into force from 14th May 1954.

2. Insertion of new part after section 5. - After section 5 of the Jammu and Kashmir Constitution Act, 1996 (here in after referred to as "the said Act") the following new part shall be inserted namely: -

PART I (A)

PERMANENT RESIDENTS

5-A Every person who is or is deemed to be a citizen of India under the provisions of Part II of the Constitution of India as applied to the State of Jammu and Kashmir under the Constitution (Application to Jammu and Kashmir Order, 1954, shall be permanent resident of the State of Jammu and Kashmir if at the date of commencement of the Jammu and Kashmir Constitution (Amendment) Act, 201, namely the 14th May, 1954:

(a) He was a State Subject of Class II as defined in the State Subject Notification No.I-L/84 dated: 20th April, 1927 read with Notification No. 13/L dated 27th June, 1932, or

(b) After having acquired immovable property in the Jammu and Kashmir State in pursuance of an IJazatnamma Rules for the time being in force, he has been ordinarily resident in the territory of the State for not less than ten years prior to the date of such commencement.

Explanation:- All persons who before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954 were State Subjects of Class I or Class II as defined in the State Subject Notification No.I-L/84 dated: 20th April, 1927, read with Notification No.13/L dated 27th June, 1932, and who having migrated after the first day of March, 1947 to the territory now included in Pakistan return to the State under a permit for resettlement in the State or

permanent return issued by or under the authority of any law made by the State Legislature shall continue to be deemed permanent residents of the State.

Status of permanent resident ship of certain juristic persons: 5-B Notwithstanding anything contained in the foregoing provisions of this Act every Company, which immediately before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, was recognized to be a State Subject within the meaning of the State Subject Notification No. I-L/84 dated: 20th April 1927 shall be deemed to be a permanent resident at such commencement.

Explanation: In this section “Company” shall have meaning assigned to it in the Jammu and Kashmir Companies Act, 1927. Continuance of the Status of permanent resident ship:- 5-C Every person who is or who is deemed to be a permanent resident of the State of Jammu and Kashmir shall subject to the provisions of any law that may be made by the State Legislature, continue to be such permanent resident. State Legislature of define and regulate the rights of permanent residents by 2/3rd majority:- 5-D. The power of the State Legislature to define the term permanent resident of the State and to regulate their special rights and privileges shall be exercisable only by a majority of not less than two thirds of the total membership of the Legislative Assembly.

State Legislative to make laws respecting the acquisition of the status of permanent resident 5-E:- Nothing contained in the foregoing provisions shall derogate from the power of the State Legislature to make such laws as it thinks fit with respect to the acquisition of the status of the permanent residents and until the State Legislature enacts provisions in that behalf the existing Ijazatnama Rules shall continue to remain in force and the existing procedure for obtaining a State Subject Certificate shall be followed for the purpose of securing the certificate of being a permanent resident of the State.

References to the term State subjects:- 5-F. Unless the context otherwise requires all references in the existing laws of the State to the expression “State Subject” shall be words “Permanent residents of the State” shall be substituted.

4. Amendment of section 29 Act XIV of 1996:- Section 29 of the said Act shall be numbered as sub-section (1) of the said section and after sub-section (1) as so renumbered the following sub-section shall be added, namely:-

Powers, privileges and immunities of the Legislative Assembly and its members and Committees: - (2) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the Committees thereof shall be such as may from time to time be defined by law and until so defined shall be those of the Parliament of India and its members and Committee.

5. Amendment of section 31, Act XIV of 1996: - In sub-section (3) of section 31 of the said Act for the words “then become and Act and have the force of Law” the words “become and Act and have the force of law as soon as it is published in either of the aforesaid languages” shall be substituted.

6. Amendment of section 37, Act XIV of 1996:- In section 37 of the said Act for the words “ any member of Board of Judicial Advisors” the words “ any judge of the Supreme Court of India” shall be substituted.

7. Amendment of section 43, Act XIV of 1996:- In section 43 the said Act:-

(i) in clause © the words “ and the members of Board of Judicial Advisors” shall be deleted; and

(ii) after clause (d) the following new clause shall be inserted, namely:-

“(dd) The salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly”.

8. Amendment of section 54 Act XIV of 1996:- In section 54 of the said Act for the words “Coat of arms” the words “ State emblem shall be substituted.

9. Amendment of section 56, Act XIV of 1996:- (i) In sub-section (2) if 56 of the said Act, for the words “ Rupees ten thousand” the words “Rupees twenty thousand” shall be substituted.

(ii) This section shall come into force from the date of publication of this Act in the Government Gazette.

10. Omissions of section 62, Act XIV of 1996:- Section 62 of the said Act shall be omitted.

11. Insertion of new section after section 62d, Act XIV of 1996:- After section 62 of the said Act, the following new section shall be inserted namely:-

“62-A If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of laws as to the interpretation of this Act or the Constitution of India as applied to the State by the Constitution (Application to Jammu and Kashmir) Order, 1954, the determination of which is necessary for the disposal of the case, it shall withdraw the case and may-

(a) Either dispose of the case itself; or

(b) Determine the said question of law and return the case to the Court from which the case has been so withdrawn together with a copy of its judgment on such question and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

12. Insertion of new section 66-A, Act XIV of 1996:- After section 66 of the said Act the following new section shall be inserted namely:-

“66-A If at any time appears to the Council that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedite to obtain the opinion of the High Court upon it, it may refer the question to that Court for consideration and the Court may, after such hearings as it thinks fit, report to the Council for its opinion thereon”.

13. Omission of section 71, Act XIV of 1996: - Section 71 of the said Act shall be omitted.

14. Omission of section 75, Act XIV of 1996: - Section 75 of the said Act shall be omitted.

15. Insertion of new section 76-A, Act XIV of 1996: - After section 76 of the said Act the following new section shall be inserted, namely:-

“ Savings as regards Patent:- 76-A. The provisions of the Letters Patent granted to the High Court on 28th May, 1948 shall continue to remain in force except in so far as these are inconsistent with the provisions of this Act or of any other law for the time being in force”.

16. Amendment of Schedule I-A, Act XIV of 1996: - in Form “C” of Schedule I-A of the said Act the words “for the members of the Board of Judicial Advisors and”

occurring in the long title and the words “President/ a member of the Board of Judicial Advisors” in the text of the oath, shall be omitted.

17. Amendment of Schedule III, Act XIV of 1996: - For the third part of Schedule III of the said Act the following shall be substituted. Namely: -

- (i) Such allowances as are admissible to the members of the Constituent Assembly.
- (ii) This provision shall be deemed to have come into force from 1st April 1955.

APPENDIX II

In the said rules:-

- (1) The words “ and daily allowance shall be omitted;
- (2) (2) In clause (iii) of sub-rule (b) the following words shall be added at the end, namely:-

“Irrespective of the class in which the member actually travels”.

2. For rule 3 the following rule shall be substituted, namely:-

Compensatory and other allowances: - (1) subject to the conditions herein contained there shall be paid with effect from 1st April, 1955 to each member of the Constituent Assembly a compensatory allowance at the rate of Rs.250/- P.M. during whole of his term as such member:

Provided that where a member fails to attend at least 90% of the total number of meeting held in any month or if elected during the course of a month, fails to attend at least 90% of the total number of meetings held in that month subsequent to the date on which he takes his oath, he shall not be paid any compensatory allowance for that month unless he satisfies the President of the Assembly that he was prevented by reasons of ill-health or sufficient cause from attending the required number of meetings.

(2) Where shall also be paid to each member of the Constituent Assembly a daily allowance at the rate of Rs.10/- for each day during the period of residence on duty: Provided he attends all meetings of the Assembly during the session or in case of absence from any such meeting has explained such

absence to the satisfaction of the President. Provided further that where such absence has been explained to the satisfaction of the President the daily allowance shall be drawn at the following rates: -

- (a) For the first 6 days of absence III a Session, full rates
- (b) For a further 12 days of absence III a Session, half rates
- (c) For days of absence in excess of eighteen in a Session. No allowances”.

Explanation: For the purposes of this rule “period of residence on duty” means the period during which a member resides at a place where a session of the Constituent Assembly or a sitting of a Committee of that Assembly is held or where any other business connected with his duties as such member is transacted, for the purpose of attending such session or sitting or for the purpose of attending to such other business and includes, in the case of session only such residence not exceeding one day immediately preceding the commencement of the Session and one day immediately succeeding the end of that session.

- (3) Where, in any month there have been no meetings the member shall be paid the full compensatory allowance for such month.
- (4) Notwithstanding anything herein before contained no compensatory allowance shall be paid to any member in respect of any period during which he was under legal detention under any law for the time being in force.
- (5) The existing rule 4 shall be renumbered as sub-rule 1 of the said rule and after sub-rule 1 as to renumbered the following sub-rule shall be inserted, namely: -

“(2) In the case of intervals between such meetings of more than seven days a member may return to his usual place of residence in the intervening period and may draw mileage allowance. If he stays at the place of meeting he may draw daily allowance but the amount drawn shall not exceed the amount which he would have drawn as mileage allowance had he returned to the usual place of residence’s

(3) Notwithstanding anything contained in this rule any member from the Frontier District may stay on at the place of meeting after the close of the Session if he is unable to return to his usual place of residence on account of conditions and circumstances beyond his control and where the President is satisfied that such a prolonged stay is justifiable, the member shall be entitled to draw at the rate of Rs.4/- per day.

4. For rule 7, the following rule shall be substituted namely:-

7. All Bills shall be prepared in duplicate on printed forms to be obtained from the Office of the Secretary Constituent Assembly and to be returned to him duly filled in and signed and one of the copies being stamped and receipted. In the case of Bills for Traveling Allowance and Daily allowance, the dates of journey including return journey to be claimed alongwith hours of departure and arrival, shall be entered in the prescribed column and the total claim shall be specified in figures as well as in words”.

5. For rule 8, the following rule shall be submitted namely:-

“8 Such Bills of the members shall be paid before audit after preliminary check by the Office of the Constituent Assembly either in cash or through a cheque or by means of Payment Order endorsed in the name of officer of the treasury at which the member desires to receive payment. The Bill for Traveling Allowance and Daily Allowance shall be countersigned by the President before payment”.

6. In rule 9, for the words “daily allowance” wherever occurring the words “compensatory or daily allowance” shall be substituted.

Amendment moved by Mr. Chuni Lal Kotwal.

Mr.Chuni Lal Kotwal:- Sir, I move:-

“For the words” and includes in the case of a Session only such residence not exceeding one day immediately preceding the commencement of the Session and one day immediately succeeding the end of that Session, the words “and includes” in the case of a session or sitting of a Committee, such residence not exceeding one day immediately preceding the commencement of the

Session or the sitting of a Committee and one day immediately succeeding the end of the Session of the sitting of the Committee, as the case may be”.

Amendment moved by Mr. Abdul Gani Trali.

Mr.Abdul Gani Trail:- The following amendment to the newly proposed Rule 3 of the Rules governing the allowances of members of the J&K Constituent Assembly, 2008:-

For Sub-rule (4) of the aforesaid Rule 3, the following shall be substituted:-

Notwithstanding anything herein before contained compensatory allowance shall be paid to a member in respect of any period during which he remains in detention under any law for the time being in force”.