



JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

OFFICIAL REPORT

ASSEMBLY DEBATE

PART II

(1956)

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JAMMU AND KASHMIR CONSTITUENT ASSEMBLY

OFFICIAL REPORT

Saturday, the 31st March, 1956 / 19th Chet, 2012

The Constituent Assembly met in the Constituent Assembly Chamber, Durbar Garh, Jammu at 1 p.m.

Mr. President (Hon'ble G. M. Sadiq) in the Chair;

***Mr. President:** - Hon'ble Members, we are meeting here after a long pause of one year. I welcome you all to this eleventh session of the Constitution Assembly. In the previous ten sessions, the House took momentous decisions and carried out tasks of far-reaching significance. This time we are meeting for a short duration and the business before us is to pass the Annual Budget for the next financial year of the Constituent Assembly Secretariat. Besides this, there are some other matters to be considered. You might be remembering that in the year 1954 this House had adopted the reports of the Fundamental Rights Committee and of the Basic Principles Committee and had directed the Drafting Committee to frame a Constitution for this State in keeping with the principles and guidelines contained in the reports. Since then this work has been steadily going on. It is only recently that I have been informed by the Chairman of the Drafting Committee that the Committee has engaged itself in giving final touches to the Draft Constitution. In view of this I have fervent hope that this House will acquit itself well in discharging that sacred obligation in the near future for the fulfillment of which this Constituent Assembly was convened and as such meet the hopes and aspirations of the people as well. I am pretty certain that in a few months to come, we shall be able to hold a full-fledged session in which the remaining work will be completed and a Constitution, democratic

in nature, framed for the State. This will usher in an era of peace and prosperity for the people of the State and will among other things, help in solving the old problems of the State in the democratic manner. I once again felicitate the Hon'ble members on meeting here after duration of one year

Note:- The star mark (*) before the names of Members indicates that the speech was delivered in Urdu and the English translation thereof is incorporated in the debates.

Mr. President: Mr. G. L. Dogra;

***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 Rs.6,65,500 for the financial year 1956-57 as shown in the enclosed statement prepared by the Finance Committee under Rule 74(1) of the Rules of Business and Procedure of the Constituent Assembly.

Sir, the practice is that the Budget of the Constituent Assembly is presented in the House every year which is ultimately passed by this House. There is nothing new in the present Budget except that at item No. 7 a provision for Rs.1,50,000 has been made for the supply of furniture and other equipment to the Assembly Hall, Srinagar. Hitherto we have been borrowing furniture from the Tawaza Department for the Assembly Hall, but unfortunately the furniture suffered damages in fair use and it was thought proper to return the same to the Department concerned as also arrange new furniture of its own for the Assembly. However, without dilating further upon this point, I hope that each Hon'ble member of this House will support this motion.

Mr. S.L.Saraf: I second it, Sir.

Note:- The above motion was then put to the House and adopted unanimously.

***Mr.G.L.Dogra:-** Sir, I moved that:

“This Assembly accords its sanction to the following additional grants for the financial year 1956-57:-

- (a) Rs.2.5 lacs approved by the Finance Committee to meet the expenditure for constructing residential buildings both at Srinagar and Jammu for Hon'ble Members and the Assembly Staff.

(b) Rs.2,200 to meet the salary of one more Under Secretary which post has been created newly by the Finance Committee in the grade of 200-20-300-25-400”.

Sir, I would like to amplify this. The Hon'ble Members feel that they have no residential accommodation either here or at Srinagar as during session, they usually stay at Dak Bungalow which defeats the very purpose for which the Dak Bungalows are meant and above all creates difficulties for the travelers who sojourn there. In Srinagar they find accommodation in hotels only which besides creating hardships for them proves detrimental to their health. This naturally precludes them from concentrating on the business of the House; this prompted us to undertake the construction of residential quarters for them for which this sum has been proposed. Another provision relates to the creation one more post of the Under Secretary. This one available at present was found awfully busy with the work of translation which entailed creation of a new post of Under Secretary who would be wholly devoted to other work. I admit that the Assembly Secretariat has a Secretary and a Joint Secretary but the Secretary is simultaneously holding the post of Election Commission and as such he has to do extra work of elections. Since this task is swelling he shall have to devote special attention to it. As for the framing of the Constitution, you have yourself said that this work is being done at an accelerated pace due to which the responsibilities of the officers concerned are increasing and will increase further. Therefore, the circumstances warrant the creation of another post of the Under Secretary the incumbent of which would devote his attention to the rest of the work especially the technical work concerning the Legislature business. This post is being proposed for correct and early disposal of this work. Without going into further details, I hope the House will pass this motion.

***Mr. Mir Qasim:-** Sir, I support the motion.

***Mr. President:-** Now the question is that the motion moved for the grant of funds as indicated at items (a) and (b) of the clause 2 on the order paper be adopted and should I feel the motion enjoys the support of the House.

Note:- The motion was adopted.

***Mr. G.L.Dogra:-** Sir, I move that this Assembly accords its approval to the enhancement of salary of Dy. President, Constituent Assembly from Rs.400 per month to Rs.800 per month as considered necessary by the Finance Committee.

Sir, at present, although there is no post by the nomenclature 'Deputy President' but the Constitution envisages the creation of the office of a Deputy President whose salary is fixed at Rs.400. The Finance Committee thought it befitting to raise the status of the Dy. President to that of a Deputy Minister, for a complicacy would arise as to the status of the Deputy President for the House. At present according to the status of the Deputy President is lower than that of the Deputy Minister but the Finance Committee has proposed a formal amendment for raising the status of the Deputy President in respect of his post, emoluments and other amenities to be brought on a par with that of a Deputy Minister. I hope the House will support this proposal.

Mr.Gh.Rasool Renzu:- Sir, I support the motion.

Mr.President:- Should I take that the House agrees to the amendment motion relating to the enhancement of salary of the Deputy President as indicated at clause 2 (ii) of the order paper ?

Note:- The motion was adopted.

***Mr. G. L. Dogra:** Sir, I move that this Assembly accords its approval to the amendment of para (b) of this Assembly Resolution passed on 5th

November, 1951, increasing the number of Members of the Finance Committee from four to five and to the appointment of Hon'ble G. R. Renzu, Speaker, Legislative Assembly, as a member of the Committee.

Sir, as regards the Finance Committee, the Speaker of the Legislative Assembly is not regarded as a member of the Committee. As a matter of fact this House though basically a constitution making body, functions as a legislative organ also and the requirements of the latter are generally met by the Constituent Assembly. Hitherto the Speaker of the Legislative Assembly was requested to attend the deliberations of the Committee as and when the requirements of the Speaker were under discussion. This was done so as to know his opinion in the matter but he was not allowed to cast his vote there which was against the canons of propriety. It is, therefore, considered appropriate that the strength of the Finance Committee be raised and Hon'ble Speaker allowed to be a member of the said Committee, thus enabling him to discharge his functions in the Committee in respect of the Legislative Secretariat. This is what made us to come forward with this notion. I hope in view of the genuine need all the Members will support this motion.

Mr. S. L. Saraf: Sir, I second the motion.

***Mr. President:** Should I take that the motion concerning the item indicated at clause 3 of the order paper is acceptable to the House.

Note: The motion was adopted.

Mr. Mir Qasim: Sir, I would like to draw your attention to the fact that some of the Hon'ble Members who belong to the opposition group have not deliberately attended the sitting of the Constituent Assembly. It has generally been observed that the said Members abstain themselves from attending the sittings of the Constituent Assembly. In fact the Constituent

Assembly meet as a legislative body and the members who participate in the deliberations of the Legislative Assembly are basically the members of the Constituent Assembly or conversely, the Members who, basically being the members of Constituent Assembly and deliberately remain absent from the Constituent Assembly Session, should cease to be the Members of the Constituent Assembly and their seats must be declared vacant.

Mr. G. R. Renzu : Sir, I want to be guided by the Chair whether an item of the order paper could be discussed in the House under rules and whether we were in a position to raise a point not covered by the agenda and discuss it here.

***Mr. President:** The point to which the Hon'ble member has drawn the attention of the Chair owes its origin to the non-participation of some members in the deliberations of the Constituent Assembly. It is not necessary to have such a point on the agenda. The Member who has raised this objection has actually pointed towards a particular instance. The Hon'ble Member might be aware that the Members of this House are free to decide what course of action they should take and if they wish, they may attend the House or remain away from it. No restriction can be imposed on them. Casual absence of a Member can go unnoticed but for sometime past we have been observing that some members abstain from attending the sittings of the Constituent Assembly without any break which denotes that their absence is not a casual one but is deliberate and pre-mediated. Non-the-less we don't want to put restrictions on them. The House is free to form any opinion in this behalf.

***Mr. Bakshi Gh. Mohammad:** Sir, may I ask when the Constituent Assembly is going to meet again and by which time it would give final

shape to the Constitution ? Some date may be fixed for the commencement of the next session.

Mr. Mir Qasim : Sir, the Drafting Committee is already functioning in this behalf and unless this Committee submits its report no date could be fixed before hand.

Mr. President : As to the Drafting Committee, I have kept a constant contact with it. As President I know that the said Committee is functioning with all seriousness, I am conscious of the fact that this is an uphill task calling for serious approach, realizing the gravity of the task. I had put forward the actual position before the House at the very outset. What I said is that we shall convene a full-fledged session of the House within a few months and give final touches to our constitution. With this today's business is over and the House is adjourned till the next announcement for convening the session of which the members will be apprised later on.

Note:- The Constituent Assembly then adjourned Sine-die.

Saturday, the 29th September, 1956 / 14th Assuj, 2013

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, at 11 O'clock.

Mr. President (Hon'ble G. H. Sadiq) in the Chair.

Mr. President : Hon'ble members! Today approximately after six months we are meeting here as the Constituent Assembly. On this occasion I welcome you all to this Session. In this Session which commences here today, you will have to complete and finalize all those important tasks which have as yet not been completed. It was five years hence that you took upon yourself a heavy responsibility and in discharging it you have

contributed your best from time to time. Now you are entering upon such a stage where it is required of you to finalize this task and I hope, this House will do so with great dignity and all seriousness.

Today we have a very little business to attend to. We have received notice of an adjournment motion, which will be placed before the House and thereafter the House will adjourn till 10th of October, 1956. The Draft Constitution will be introduced in this House on 10th October, 1956 and after the conclusion of this business the House will adjourn till Legislative Assembly Session ends. After that there will be a Constituent Assembly business which, I hope, you will take up in right earnest, with great patience and seriousness.

I have received an adjournment motion; the notice whereof has been given by Mr. Hamdani.

Mr. G. R. Renzu: Point of order, Sir, my point of order is, as to whether an adjournment motion could be moved in the Constituent Assembly. According to the parliamentary procedure an adjournment motion is a censure motion. Its purpose is to draw the attention of the Government to an urgent matter of public importance. But as we are meeting as the Constituent Assembly, so in the Constituent Assembly there are neither Treasury nor Opposition Benches. Hon'ble members have come to attend this Session of the Constituent Assembly as ordinary members. So my point is that there are no Treasury Benches and the Government is not represented here in the Constituent Assembly, I feel our Rules are clear and would like to draw the attention of the Chair to Rule 26 of the Rules of Business and Procedure of the Constituent Assembly.

Rules 26 reads as follows :-

“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”.

So, as provided in the Rules the adjournment motion of Mr. Hamdani cannot be moved in this House.

Mr. G. M. Hamdani : Resolved that the business of the Assembly do stand adjourned in order to discuss a matter of urgent public importance namely :

The continued detention of the following Hon’ble members of this Assembly :-

1. Hon’ble Sheikh Mohammad Abdullah.
2. Mr. M. A. Beg.
3. Kh. Abdul Gani Goni.
4. Mr. Ghulam Mohammad Beg.
5. Kh. Mubarik Shah.
6. Mr. Hakim Habibullah.

Mr. G. R. Renzu : Sir, I raised a point of order.

***Mr. President :** As far as an Adjournment Motion is concerned, it must be of a particular nature. There is a particular method to discuss any matter. Rules of Procedure of the Constituent Assembly also provide that an adjournment motion can be moved in certain circumstances. Now this is a separate question whether I hold this motion as being or not being in order, in this respect I do not want to express any views in advance.

***Mr. Ghulam Mohi-ud-din Hamdani :** Sir, I rise to move the following adjournment motion :-

“Resolved that the business of the Assembly do stand adjourned in order to discuss a matter of urgent public importance, namely, the continued detention of the following Hon’ble member of the Assembly :-

1. Hon'ble Sheikh Mohammad Abdullah.
2. Mr. M. A. Beg.
3. Kh. Abdul Gani Goni.
4. Mr. G. M. Beg.
5. Mr. Mubarik Shah.
6. Mr. Hakim Habibullah.

Sir, I would not take much time of this House and confine my speech only to this extent. Today, as you have told, we are going to take an important decision about the future and future set up of this country, it becomes essential that some Hon'ble members who have been kept under detention for the last four years without assigning any reason for such detention, should also be given an opportunity to express their opinion in this behalf so that as much views as possible could be obtained in respect of the Constitution and the future of this country. I understand that it is not befitting the occasion to keep them under detention and if their detention is continued even at present it means that you are depriving three lakhs of people from representing their views as one hon'ble member represents 40 thousand people in this House. There is no reason why all those Hon'ble members who have been under detention in jails be not brought here to participate in the deliberations of this House as otherwise this Constitution will be nothing but a big joke.

With these few words I beg to move this adjournment motion in the House.

Mr. Ghulam Nabi Wani Badgami: Sir, I second the motion.

***Mr. D. P. Dhar:** Sir, I want to invite your attention to one particular fact. It is that the object of this adjournment motion has almost been made clear by the hon'ble mover himself. The point raised by Mr. G. R. Renzu, is still

pending decision. As far as Rule 26 is concerned, it is wrong to bring this adjournment motion within the scope of this Rule, because the remedy sought through this motion cannot be made available either by this House or by any hon'ble member. It is a separate question if only the attention of the Chair is intended to be drawn. To continue further discussion on this motion will be totally against rules.

***Mr. President :** The object of the adjournment motion moved by Mr. Hamdani is that the hon'ble members who are at present under detention, be released. I would like to invite the attention of the House to this effect that as far as I know, the adjournment motion of similar type was moved by Mr. Abdul Gani Goni in 1953. After a brief discussion I gave my ruling and the motion was declared rejected. I mentioned in that ruling that no time had been specified in the motion. The hon'ble mover had stated in the adjournment motion that the business of the Assembly be adjourned till the detenus are released.

The second thing which in addition to that ruling, could perhaps come in the way of declaring this adjournment motion in order is, as I have already said, that the adjournment motion according to rules must be moved in a specific form namely, the attention can be drawn to a specific matter, which must necessarily be of recent occurrence. When the hon'ble member finds no other alternative but to draw the attention of the House to such a matter then there is a particular mode of asking for leave to move an adjournment motion which is followed in all the parliaments of the world. It is that the attention of the House is drawn to a definite matter of urgent public importance. As far as I understand, the matter, attention to which has been drawn by the hon'ble member, is neither of urgent public importance nor of recent occurrence.

Thirdly, there is not as much scope for admitting an adjournment motion in the Constituent Assembly as there is in the Legislative Assembly. Hon'ble Renzu has said that generally the object of moving an adjournment motion is to bring a censure motion against the Government. But as far as this Assembly is concerned, the Government is neither participating here as Government nor its members are sitting here in the capacity of Ministers. The members, who are present here, are all sitting as members of this Assembly; therefore, the question of bringing a censure motion against the Government does not arise. Anyhow, permission is granted to move adjournment motions in the Constituent Assembly in respect of such matters as are included in the orders of the Day. An adjournment motion can be moved only if any member has an objection against any of these matters. I mean the matters which are directly connected with the work of the Assembly and wants to discuss the same immediately. Mr. Hamdani will himself understand all those circumstances under which an adjournment motion can be moved and discussed if he minutely reads Rule 26 of the Constituent Assembly Rules. The Adjournment motion can be moved under Rule 26 for the purpose of discussing any matter which is either included in Order of the Day, or is of urgent public importance. Under this circumstance and in view of the ruling given in the year 1953, I am sorry to say that the adjournment motion cannot be admitted.

Mr. Ghulam Mohi-ud-Din Hamdani:- Sir, in view of the Ruling given by the President we stage a token walk out.

Note: The following Hon'ble Members left the Chamber:-

1. Mr. Ghulam Mohi-ud-Din Hamdani
2. Mr. Ghulan Rasul Raina.
3. Mr. Ghulam Nabi Wani Badgami

4. Mr. Allau-ud-Din Gillani

5. Mr. Ram Rakha Mal

Mr. President:- Item No. 1 of the Order Paper. Mr. Girdhari Lal Dogra.

Mr. Girdhari Lal Dogra:- Sir, I beg leave to move the following:-

“Resolved that instructions be issued forthwith by the Government to the authorities concerned for the preparation of electoral rolls and for taking all necessary steps so that elections to the Jammu and Kashmir State Legislature under the new Constitution may be held as early as possible in the year 1957.

2. “Resolved further that the said electoral rolls be prepared as far possible on the basis of the provisions contained in the Jammu and Kashmir Constituent Assembly (Preparation of Electoral Rolls) Rules, 2008 published in the Jammu and Kashmir Government Gazette (Extraordinary) dated: the 13th Jeth 2008 (26th May, 1951) subject to the modifications as noted below and such further modification to be made by the Government as may be necessary:- that no person shall be included in the electoral roll of any area;

(a) if he is not a permanent resident of the State as defined in the Jammu and Kashmir Constituent Act, 1996;

(b) if he is less than 21 years of age on the first of March, 1957;

(c) if he has not been ordinarily resident in that area that is to say, if he does not ordinarily reside therein or own or possess a dwelling house therein; and

(d) if he is disqualified from voting by or under the provisions of any law for the time being in force in the state”

Note: At this state five Hon’ble members who had staged a token walk out re-entered the House and resumed their seats.

Mr. G.L.Dogra:- Sir, you have just now observed that this House is meeting here in order to complete the test which was assigned to them five years back. After completion of the Constitution it becomes necessary that elections be conducted as early as possible. It, therefore, becomes necessary to take up the work of the preparation of the electoral rolls in right earnest. If before preparation of Draft Constitution, this work is not started, then perhaps electoral rolls would not be completed even during the next year. Therefore, it is necessary that this work be completed as early as possible. I hope, every democratic minded member of the House who wants elections to be conducted as early as possible will support my resolution.

Mr. S.L.Saraf: sir, I second the motion.

Mr. President: Mr. D.P.Dhar

Mr. D.P.Dhar: I will not read out the second part of the amendment.

The first part is as follows:-

“That in the first Para of the Resolution the following be substituted:-

Mr. G.M.Hamdani:- On a point of Order; sir.

The position is that there are so many references to this resolution, but unless that report is before us or has been placed on the table of the House, how can the Hon’ble member be supposed to know what does it refer to. To which particular clause and to what does this motion of Hon’ble D.P.Dhar refer? Unless we have that report before us, I think, we cannot be as much useful in our deliberations as we could otherwise.

Mr. D.P.Dhar: I think, the Hon’ble member is speaking in dreams. This report has already been passed by this Assembly during the last Session and thus has become a public document. This is not my fault if the Hon’ble member has not taken the trouble to read it.

Mr. President: The report was adopted on 6th April, 1954 in this Assembly. As far as I remember, this report was also published in the Assembly Proceedings and I believe that all the Hon'ble members of the House must have got these copies.

Voices: Yes, Yes sir.

Mr. D.P.Dhar: Sir, I move:

“That in the first para of the Resolution, the following be substituted: -
“Whereas in accordance with the directive contained in the report of the Basic Principles Committee adopted by this assembly on 6th February, 1954 necessary provision has been made for the holding of election to the Jammu and Kashmir state Legislature under the new Constitution on the basis of adult suffrage.

And whereas pending passage of the Constitution by this Assembly, it is essential to take certain preliminary steps including the preparation of electoral rolls so that election to the State Legislature may be held as early as possible in the year 1957;

Now therefore, this Assembly resolves that the government be requested to issue forthwith, for the aforesaid purpose, appropriate instructions to all the authorities concerned for the preparation of electoral rolls and for taking all such steps as may be deemed necessary”

Bakshi Abdul Rashid: I second it.

Mr.G.L.Dogra: I accept the amendment.

Mr. President: Mr. Chuni Lal Kotwal;

Mr. Chuni Lal Kotwal: Sir, I move that in Para 2 sub-clause (b) for the words “Twenty one” “Eighteen” be substituted.

The law admits that a person comes of age when he completes his eighteen years. This means that under law he is qualified to execute any contract whether it relates to his property or other assets and none can question the validity of the same.

I do not understand why a person at the age of eighteen, when law recognizes his having attained majority is debarred from the right to vote. Sir, all of my friends know that a youth of their country usually passes his B.A. Examination at the age of 18 and obtain his M.A. degree at 19 or 20. During our Five Year Plans period youth of 18, 19 or 20 years age have in large number been recruited in Government services. Under K.S.S.R. persons of the age of eighteen can be recruited in Government services and it is expected that they perform the government duties satisfactory. Our sisters, who are receiving the education in the Colleges, also enter Government services at the same age. Therefore, there is no justification for fixing the age limit at 21. There is a large number of such persons who will, by fixing age limit of 21 years, be debarred from the right to vote. They will also not be able to fight the elections and will thus also be disfranchised. These were the four main points which I had to submit before the House.

I would humbly request the Hon'ble members that it will be proper for them to fix the age of 18 instead of 21. We have also promised in 'Naya Kashmir' that a person attaining the age of 18 years will be entitled to vote and as such we should not back out from that promise.

In view of these circumstances I beg to move my amendment.

S. Harbans Singh Azad:- Sir, Mr. D.P. Dhar's amendment has come to me as a surprise. I regret that by moving this amendment, he has completely ignored the Basic principles Committee's Report, I wonder, if any body is within his rights to make departure from the recommendations of the Basic

principles Committee, adopted by this House. Sir, in this connection I may draw your honours attention to page two of the Basic Principles committees report, wherein it is stated

“Election in 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 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”.

And now in super session of this directive, it is being moved that the Voter's age be raised to 21 years. I feel the decision of the House, is being violated.

Moreover, even under the Constituent Assembly on any issue cannot be reopened till it is allowed by a majority Vote of the House. The world has advanced a lot. As already expressed by Mr. Kotwal when persons attaining age of 18 years can stand as surety or enter in to various Government services or execute contracts, why they should be deprived of the right to vote. I believe, the denial of this right, will be a great injustice to them. Besides, a greater section of the inhabitants will, be deprived of the right to vote. Moreover, I suggest that the decision taken by the House on the recommendations of the basic Principles Committee should not be contravened in any way. I hope, Mr. Dhar, the Mover, will withdraw his motion. I second the amendment, moved by Mr., Chuni Lal Kotwal.

***Mr. Mir Qasim:-** Sir, I want to say something on the points raised by S. Harbans Singh Azad. I cannot say definitely at this stage as to what decision this House will take on the fundamental issue i.e. whether the age of a voter

be fixed at 18 years or 21 years. And I do not disagree with him to the effect that the age of the voter should be 18.

***S.Harbans Singh Azad:** I stick to my point that no gentleman has any right to move any resolution in contravention of the directives contained in the report of the Basic principles Committee.

***Mr. Mir Qasim:-** As far as this particular point, whether the age of the voter be fixed as 18 or 21 by this House, is concerned, I do not have a mind to oppose Sardar Sahib. But I do not see eye to eye with him with regard to his contention that as 18 years age has been recommended by the Basic principles Committee, therefore, no amendment to alter it can be moved in the House. It is a fact that the Basis principles Committee has laid down directives for the guidance of the Drafting Committee I do agree that the drafting committee must adhere to these directives and whatever draft they may introduce must necessarily be in accordance with these directives. If any member wants to move an amendment to the draft, he is at liberty to do so. This amendment wants the decision of the House in favour or raising the voting age to 21 years. This is not in contravention of the Basic principle Committees Report. The House is competent to take decision in this behalf. Dogra Sahib has not moved this resolution in the capacity of the Chairman of the Drafting Committee but in the capacity of a member of the House

***Mr. Ghulam Nabi Wani (Lolab):-** sir, Mr. Mir Qasim's contention that the Drafting Committee is not bound by the Directives of the Basic Principles Committee, is not correct.

***Mr. Mir Qasim:** What I have said is quite reverse.

***Mr. Ghulam Nabi Wani (Lolab):-** If the Drafting Committee is bound by the directives contained in the Basic principles Committee Report, then I feel an attempt to fix the voting age at 21 instead of 18, is an contravention

of the earlier decision of the House. If the amendment is accepted, it would mean denial of right to vote to a majority of the inhabitants, and the same, I think is a great injustice to them. When a young man of 18 years of age is considered major in other walks of life, he must have the right to vote, so that he may have full share in the building of the country. Otherwise this would tantamount to a great injustice to a big section of the inhabitants. No democratic minded person can tolerate this injustice as it denies him the opportunities to take part in the uplift of the country. I hope, the House will accept the amendment moved by Kotwal Chuni Lal.

***Mr. G.L.Dogra:-** I want to explain the position. I think, my time will be extended.

Mr. President: There is enough time.

Mr. Mohd. Ayub Khan: sir, S. Harbans Singh has made his view point amply clear, on the motion before the House, that any amendment contrary to the Basic Principles Committees Report is inadmissible, as this. Report forms the basic of our Constitution. Secondly at the time when we were busy in liquidating the autocratic rule, we brought out a manifesto ensuring right of vote to all men and women, of 18 years age and enabling them to use their fundamental and democratic right so that they were enabled to contribute their best in building a bright future the right of vote is the fundamental right with a citizen. In case we pass the motion unamended, it would mean that we are going back upon the promise extended to the people 20 or 22 years before. I am one with my friend Khawaja Ghulam Nabi Sogami who observed that persons of 18 or 20 years age can shoulder responsibilities equally with the persons of 21 years age in all other walks of life, why should they be deprived of this fundamental right. With these words I strongly endorse Mr. Kotwals amendment.

Mr. G.R.Renzu:- I am not opposing the motion. I am supporting it. Sir, I will take up its technical aspect. We have to base our Constitution on the decisions taken by the Basic principles Committee. It will not be proper to say that the decisions taken by these committees are mere directives. Secondly if we accept the motion that is before the House, it will be in contravention of the decisions taken by the Basic principles Committee. The basic principle committee as accepted the voting is as 18. The acceptance of this motion would tantamount to rising the voting age to 21 years without revising the decisions taken by the Basic principles Committee it is proper that we first revise the decision taken by the Basic Principle Committee as we are competent to do so. And in case it is considered appropriate, there remains no hitch in accepting the present motion. I think, recourse to this method would enable us to proceed with the task in hand.

***Mr. D.P.Dhar:-** Sir, the question involved is whether through this resolution the decisions of the Basic principles Committee can come up for discussion and whether resolution can alter the decision taken by the Basic principles Committee. The point to be discussed is whether the age of a voter should be 18 years or 21 years. This decision is to be taken by the Hon'ble Members. I cannot agree with my friend Mr. G.R.Renzu, as regards the contention that acceptance of this Resolution without revising the decision of the Basic principles Committee would be in contravention of the decision taken by the committee. The Resolution, after it is passed would raise the voting age from 18 to 21 and the old decision of the Basic principles Committee will be deemed to have been amended to that extent. This Assembly is competent to take a decision to that effect by means of this resolution.

***S.Harbans Singh Azad:** Point of order, Sir

I refer you to Rule 33 which says:-

“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”.

No consent has been sought.

***Mr. G.L.Dogra:-** A few Hon’ble friends have spoken on the motion without appreciating the motives behind it. Mr. Kotwal’s amendment is in opportune. This is an initial stage. We must give a good thought to the preliminaries before the constitution is passed. The House endorses the view point of Mr. Qasim that it should give directive to the Drafting Committee to the effect of fixing the voting age either at 18 or 21. The Drafting Committee will draft the constitution on the lines of these directives. This resolution aims at forgive an agreed view on the issue. Sir, I have tried to study the proceedings of different legislatures before moving this resolution. I have gone through the reports of the Basic principles Committee of different legislatures. There have been changes in those reports up to the last moment. I cannot say what decision this House will take. The House is competent to make any change it likes. I do not want to discuss it any more. If the voting age is fixed at 18 even then the persons of 21 years age will be electors. Additions can be made in the electoral rolls according to the decision of the House at the time these are prepared. We must do some thing up to that time. That is why I have moved this resolution. In case you fix 18 years age now and afterwards want to raise it to 21 years, much difficulty will arise. I cannot pre-judge the decision of the House. I have moved this resolution only so that the work may be started. An additional list of voters can be prepared according to the decision of the House. I do not wish to go into the merits of this resolution. Kotwal Chuni

Lal has stressed that when boys of 19 years of age are in Government services and they pass their B.A's or M.A's in that age why they should be deprived of the right to vote. I may say that such cases are only 5 percent and this low percentage does not justify the fixation of voters' age at 18 years. Their names can be included afterwards.

***Mr. Mir Qasim:-** If we decide now that the age of a voter should be 21 years then the resolution will be passed in the form it has been moved. Dogra Sahib's contention that persons of 18 years of age can be included in the voters list afterwards, is unintelligible to me.

***Mr. D.P.Dhar:-** Sir, we should adopt such a procedure as might enable us to amend the past decision. The procedure has been prescribed in Rule 33.

***Mr President:-** S. Harbans Singh has made a reference to it.

***Mr. D.P.Dhar:-** My submission is that sense of the House may kindly be ascertained in order to find out if $\frac{1}{4}$ members want to reopen this issue or not.

***Mr Assad Ullah Mir:-** Sir, I think, We are going beyond the scope of discussion. The point at issue is whether the age of a voter be fixed 18 years instead of 21 years. I do not think it is appropriate to go into the question whether this House should abide by or contravene the directives of the Basic Principle Committee. I feel, this House is competent to even after the Fundamentals of the Constitution. The simple question is whether the age of a voter be reduced to 18 years from 21. The Hon'ble members have expressed their views on the point. Kotwal Sahib has put forth the legal as well as the moral side of the issue. Similarly S.Harbans Singh has put forth his arguments. I would request the Hon'ble President that we need not go into the controversy whether this amendment can be moved or not. This

amendment should be put to vote. If the majority of members accept it, the matter will be decided accordingly.

***Mr President:-** It is to be seen with regard to the question raised here, as to whether this House is competent to take any decision in contravention of that already taken by it. In this behalf I think, the matter is quite clear and this House is fully competent to take any decision it deems fit. The question is that figure 21 be entered instead of 18 in the resolution moved by Dogra Sahib in the House. The difficulty is that sometimes back this very House had taken decision fixing the age as 18 years and the Drafting committee was also informed accordingly. This House is competent to alter this decision under the procedure laid down in Rule 33 of the Rules of Business and procedure of the Constituent Assembly. Before the resolution moved by Dogra Sahib is put to vote, it is necessary to see whether one-fourth members present here are in favour of reopening the issue relating to the age of a voter. If they so desire, no objection can be raised in respect thereof.

Now the question before the House is that the Hon'ble members who are in favour of raising the age of voters to 21 instead of 18 years, should stand up. I mean, the Hon'ble members who are desirous to reopen this issue relating to the age of a voter should stand up.

Note:- The majority of members rose.

***Smt. Isher Devi Maini:-** In "Naya Kashmir" the right to vote has been given to a person who has attained the age of 18 years therefore, I second it.

Shri Bhagat Ram Sharma:- Sir, there are two aspects of the issue, one is constitutional and the second is legal. So far as the constitutional aspect is concerned, it is a fact that the recommendations already made by the Basic Principles Committee in its Report were approved by this Assembly. Now the question is that when it has already been decided by this House that the

age of a voter should be fixed as 18 years. Is it necessary to revise this decision and reopen the issue?

***Mr President:-** According to the procedure of the House it has been decided that the question of determining the age of a voter be re-opened. But the purpose of the amendment which is before the House is, that it should be 18 years instead of 21 years as specified in the resolution. I would like to enquire from the Hon'ble Mover whether he accepts the amendment.

***Mr. G.L.Dogra:-** No. Sir

***Mr. C.L.Kotwal:-** Sir, all the Hon'ble members have listened to the views of the Hon'ble Mover that he expressed with regard to my amendment. I wanted to move that motion in the shape of a resolution because the elections are fastly approaching. I think that this matter will be decided completely at the time of the adoption of the Constitution.

Under the circumstance, I think it proper to withdraw my amendment.

***Mr. Mir Qasim:-** I think Mr. Kotwal has raised a very vital issue. It has to be finally decided now whether the Hon'ble members are in favour of this amendment or the resolution proposing the age of a voter as 21 years because the matter has been reopened for discussion as a result of the decision taken by this House.

***Mr. President:-** In my opinion this decision taken by the House to reopen this issue regarding the age of a voter does not affect in any manner the present motion of withdrawal of the amendment. The question is that Mr. C.L.Kotwal wants to withdraw his amendment. Should I presume that the House permits him to do so.

Note:- the permission to withdraw the amendment was granted majority of the members.

Mr. President:- S.Harbans Singh Azad

***S.Harbans Singh Azad:-** Sir, I move that at the end of first paragraph of the resolution the words “but not later at than the last day of May,57” be added. The object of my amendment is that elections be held in year 1957 but these should be completed before the end of May 1957. Several times this has been announced by the Government as well as the Prime Minister that the State Constitution will be completed during the year 1956, and the general elections in the State will be held simultaneously with the elections in India. The general elections in India will be held in February, 1957. In case there is any delay, it will not be of more than two weeks. In this way election in India will be over by the end of March, 1957. According to the statement of the Prime Minister, our elections are also to be completed by the middle of February. Now the question arise that in March, taking in consideration the condition of our valley, we will not be in a position to hold elections.

I would, therefore request that the elections be completed by the end of May, 1957. The object of the motion under discussion is that directions for preparation of electoral rolls be issued. These lists will be prepared at least within two or three months. Therefore, there is no possibility of holding elections in March. If these are not possible in March, these can be held in May. I wish that elections be held as early as possible so that every party should get an opportunity to launch its election campaign. It will be proper to finish our elections simultaneously with India. I think the Government is also of the same opinion and the country also desires to hold elections as early as possible.

I would request that the work of the preparation of voter's lists for elections be started at once. In case any difficulty is faced in March, the election may be completed in May, so that a new Government be set up

under the new Constitution. The destination towards which we are marching must be reached as rapidly as possible so that the assurance of raising the standard of living of the people that we have held out to them becomes an actuality. There is no doubt that the progress made so far in the State is worth appreciation, but there still remains much to be done.

With these words I hope, the Hon'ble members will accept my amendment.

***Mr. G.M.Rajpoori:-** Sir, I would like to say something with regard to the amendment, moved by Sardar Sahib.

Mr. President:- Do you support it ?

Mr. Rajpoori:- No, Sir, I oppose it.

***Mr. C.L.Kotwal:-** Sir, I have been greatly impressed by the sincerity of purpose which made Sardar Sahib to move the amendment. I would like to add that the National Conference party Government under the leadership of Bakshi Ghulam Mohammad have restored peace and order in the State and cultivated love of freedom and constructional works in us. To-day we can say it without any fear of contradiction that we fully enjoy the fruits of democracy. We want to have a people's Government and it is with this object in view that we want to hold elections as early as possible. In the end I would submit that our elections must be completed by the end of May, 1957. With these words I second Sardar Sahib's amendment.

***Bakshi Ghulam Mohammad:-** Sir, I fully appreciate the ideas expressed by Sardar Harbans Singh Azad and Kotwal Chuni Lal. In this connection I would like to say that I am neither in favour of this amendment nor do I think that it would in any way help us. During his speech Sardar Sahib has referred to one of my statements. There is no doubt that my friends and myself have assured the country that we will complete our Constitution

during 1956. The assurances, which we have given, I would like to assure Azad Sahib and other friends, would definitely be carried out.

So far as his second point is concerned, and towards which he has drawn our attention I would like to remind him that I did not say that our elections will be held simultaneously with Indian elections, I would submit that at that time I also uttered the words “If possible” I believe Sardar Sahib has forgotten the words “if possible”. While speaking on his resolution my learned friend. Mr. G.L. Dogra, has said that the elections will be held under the new Constitution as soon as the same is completed and has further stated that these elections will be held in 1957. He has not fixed any date in this behalf. However, we shall try to hold elections in February 1957 or perhaps in March, or earlier than that. This is our ambition.

Now if the House fixes any early date for holding the elections as Sardar Sahib desires and if any difficulty arises by which it becomes impracticable to hold these elections by that date, then it will not be possible to get this time extended because there will be no Constituent Assembly in existence at that time. Sardar Sahib should remember that as far as the Government is concerned, they are bent upon conducting elections in accordance with this resolution. So many other things will have to be done in connection with elections namely, preparation of electoral roll, printing thereof, publication, inviting claims and objections, decisions on claims and objections, preparation of final electoral rolls, issuing of notifications, dates for scrutiny, withdrawal and then finally polling. This is not an early job, which could be done within two, three or four days.

Before anytime is fixed for holding elections, Sardar Sahib has to take into consideration the period likely to be spent on printing of rolls and deciding claims and objections. I quite appreciate the ideas of Sardar Sahib

but I want to make it clear that it is dangerous to fix any time earlier than that given in the resolution. We will try our best to make preparations for holding elections as early as possible in the same way as we are trying to complete our Constitution before 1956. We say every thing here with a sense of responsibility. I hope the amendment, moved by Sardar Sahib will be withdrawn and the resolution moved by Dogra Sahib will be passed.

***Sardar Harbans Singh Azad:-** Sir, as I have been assured by the Hon'ble Prime Minister. I would like not to press my amendment.

***Mr. President:-** Sardar Harbans Singh Azad wants to withdraw his amendment.

Note:- The motion was withdrawn with the leave of the House.

Mr President:- The resolution in an amended form before the House is:-

1. "Whereas in accordance with the directive contained in the Report of the Basic Principle Committee adopted by this Assembly on 6th February, 1954, necessary provision has been made for the holding of election to the Jammu and Kashmir State Legislature under the new Constitution on the basis of adult suffrage;

And whereas pending passage of the Constitution by this Assembly, it is essential to take certain preliminary steps including the preparation of electoral rolls so that election to the State Legislature may be held as early as possible in the year 1957;

Now, therefore, this Assembly resolves that the Government be requested to issue forthwith, for the aforesaid purpose appropriate instructions to all the authorities concerned for the preparation of electoral rolls and for taking all such steps as may be deemed necessary;

2. Resolved further that the said electoral rolls be prepared as far as possible on the lines of the provisions contained in the Jammu and

Kashmir Constituent Assembly (Preparation of Electoral Rolls) Rule, 2008 Published in the Jammu and Kashmir Government Gazette (Extraordinary) dated the 13th Jeth. 2008, (26th May, 1951) subject to the modifications as noted below and such further modification to be made by the Government as may be necessary;

That no person shall be included in the electoral roll of any area:-

- (a) if he is not a permanent resident of the State as defined in the Jammu and Kashmir Constitution Act, 1996.
- (b) If he is less than 21 years of age on the 1st of March, 1957:
- (c) If he has not been ordinarily resident in that area that is to say, if he does not ordinarily reside therein or own posse a dwelling house therein; and
- (d) If he is disqualified from voting by or under the provisions of any law for the time being in force in the State.”

The Hon’ble members who are in favour of this resolution should say “Aye” and those against say “No”

Note:- The motion was adopted.

***Mr. President:** With this today’s business is over. The next meeting will be held on 10th, therefore, I adjourn the House till date.

***S. Harbans Singh Azad:-** Of which month.

***Mr President:-** Tenth of October, I would like to have the permission of the House to adjourn the House till 10th October, 1956, at 1.A.M. should I take that the House permits me.

Note:- The permission was granted.

***Mr. President:** This House will again met on 10th of October, 1956 at 11 A.M.

Note:- The House then adjourned till the 10th of October, 1956 at 11 A.M.

Wednesday, the 10th October, 1956/24th Assuk,2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajbagh Palaces Srinagar at eleven of the O'clock.

Mr. President :-(Hon'ble G.M.Sadiq) in the chair

Mr. President:- Mr. Girdhary Lal Dogra.

***Mr. G.L.Dogra:-** Sir, I beg to present the report of the Drafting Committee and introduce the draft Constitution as settled by the Committee.

Sir, on 20th October 1953, this House set up the Drafting Committee. This Committee prepared this Draft keeping in view the report of the Basic Principles committee and other resolutions adopted by the House from time to time. The fundamental principle on which the draft is based are as follow:-

Parliamentary democracy; responsibility of the Executive to the Legislature; join responsibility of the Cabinet; separation of the various powers of the State, viz; Executive, Legislative and judicial and finally the rule of law.

One basic feature of the Constitution is that we have once again affirmed that the State is an integral and inalienable part of India and will ever remain so. The Constitution lays down that the State will consist of all those territories which were under the sovereignty or suzerainty of the Ruler of the State till 1947. Rights of the permanent residents of the State have been secured while they will also enjoy fully the benefits of the citizenship of India.

In order to incorporate the principles of New Kashmir in our Constitution a new chapter by way of Directive Principles of State policy has been added to this Draft. The Draft Constitution lays down that there will be a Head of the State Known as the Sadar-I-Riyasat. He will be

elected by the Legislature of the State. A candidate for the office of the Sadar-I-Riyasat will have to obtain a definite majority vote of the Assembly. We have provided for the removal of a Sadar-I-Riyasat from his office if he is found guilty of violating the provisions of the Constitution.

We have recommended a bi-cameral legislature for the State. The Lower House, that is, the Assembly will be composed of one hundred members. 25 seats out of the total number are reserved for that part of State, which is under enemy occupation for the present. The rest of the State will have a right to return 75 representatives to the assembly. The upper House that is the Legislative Council will be composed of the representatives of various groups' institutions in the state.

So far as Judiciary is concerned it has been recommended that the Judges of the High Court be appointed by the Sadar-I-Riyasat. But it is left to the House to decide whether in the interest of inspiring the people with greater confidence in the independence and impartiality of the High Court it is advisable that the appointed of the High Court Judges by the Sadar-I-Riyasat be made subject to the confirmation of the president of India. If so, the House can make a recommendation to this effect.

Similarly so far as the finances of the State are concerned it has been recommended that all the revenues be paid into the State treasury and that without the authorization of the Legislature no amount however small be withdrawn from the Consolidated Fund of the State. We have provided for the setting up of a public service Commission for the State in the Draft Constitution. We have recommended for establishing an Election Commission with an Election Commissioner as its head. We have laid down some provisions in the Draft Constitution for carrying on the functions of the

Government during the transitional period. The draft definite provisions setting out the manner amending the Constitution.

Salaries, allowances, emoluments and other privileges of the Sadar-I-Riyasat, the Speaker, the Deputy Speaker, the Chairman, the Deputy Chairman and those of the Judges of the High Court are shown in separate schedules attached to the Draft Constitution. The V Schedule shows the form of Oath or affirmation to be made or subscribed by a citizen before entering upon his office. The VI Schedule shows the regional languages recognized by the Constitution.

Mr. President:- I am not going to make a protracted speech at this stage, therefore without taking any more time I present the Draft Constitution as drafted by the Drafting Committee and hope that the Hon'ble members will carefully go through it and will give their considered opinion in the House so that it may be given a final shape at the earliest (Loud applause).

***Mr. Mir Qasim:-** Sir, the Draft Constitution has been presented to the House by Hon'ble Mr. G.L.Dogra and while presenting the draft he has ably brought out the salient features of the Draft. This Draft is a sum total of all the aspirations and desires of the nation. The House has been called upon to go through the Draft and try to understand it thoroughly.

When for the first time on 5th November, 1951, this House, came into being as the Constituent Assembly of the State the then Leader of the House read out a policy speech in the House detailing out the aspiration and ideals of the nation. That speech was the exact portrayal of the aspirations, feelings and hopes of the nation and was also in conformity with the policy followed by us throughout the freedom movement. The same ideals, aspirations and hopes are today being placed before the House in a concrete shape. For these reason it is a most important day in our history. The then Leader of the

House was portraying the sentiment of the nation when he said 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”. I am of the opinion that those wishes are being fulfilled and those hopes are materializing today. The then leader also said, “After Centuries, we have reached the harbour of our freedom which for the first time in history, will enable the people of Jammu and Kashmir, whose duly elected representatives are gathered here, to shape the future of their country after wise deliberation and mould their future organs of the Government. No person and no power stand between them and the fulfillment of this there historic task. We are free; at last to shape our aspirations as people and Undoubtedly the sentiments pervading this statement have fully been incorporated in the Draft. That policy statement also referred to the great task of the assembly in the following words: -

“This Assembly, invested with the authority of a Constituent Body, will be the fountain-head of basic laws, laying the foundations of a just social order and safeguarding the democratic rights of all the citizens of the State”. Thus this Draft is placed before the House as the basic Law of the Land referred to in the above statement. The statement further reads: -

“You are the sovereign authority in this State of Jammu and Kashmir: What you decide has the irrevocable force of Law”. This Draft is modeled and framed on these lines. The then Leader further remarked:

“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 good will of those people and Government is available to us in unstinted and abundant measure”.

This Draft lays down what the future relation of our State with India will be. It also lays down the lines on which the future Government of the State will function, satisfying thus the above quoted urges of the people. The policy statement further states that:

“The Constitution of India has provided for a federal union and in the distribution of sovereign powers has treated us differently from other constituent units”. We have been given special autonomy by the Union Constitution yet we enjoy all the privileges of the citizenship of India.

We have fully utilized the internal autonomy by laying down the lines on which our internal Government will be carried on. The statement further observed that “while guaranteeing this basic unity of the State. Our Constitution must not permit the concentration of power and privileges 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” I have no doubt that you will find these principles and aspirations imbibed to the last letter in the Draft Constitution. It was also remarked in that policy statement that. “As an instrument of the will of a self determining people who have now become sovereign in their own rights.....”

The statement simply meant that we have attained the right of self-determination. This Draft is a concrete example of our attaining that right. I am glad that the sentiments and aspirations of the people given expression to by the then Leader of the House in that policy statement have faithfully been incorporated in this Draft. I can say without any fear of contradiction that each and every hope and ideal expressed by the nation from time to time

have been given a proper constitutional shape. I do not see any defect in the Draft presented to the House.

You will find this Draft Constitution exactly what you desired it to be. The policy statement had laid down the principle of distribution of power to some extent. The statement left the compensation issue to be decided by the Constituent Assembly. Whether those landlords are to be compensated or not whose lands have been transferred to the tillers? You took the decision in this behalf which has been accepted by all and applied by the courts.

The other major issue, which was to be decided, has also been decided by you. The question was about the future of the ruling dynasty of the State. You replaced the hereditary ruler by an elected head of the State. Thus the draft has provided for an elective head of the State who can be removed from his office by the Legislature. Henceforth the head of the state will be known as the Sadar-I-Riyasat. If during his term of office he violates the provisions of the Constitution he can be removed from office.

The third question pending decision was whether the State should accede to India or to some other country? And we had also to decide about our constitutional set up. So far as the internal governmental machinery of the State is concerned the Draft has laid down the framework of that machinery. So far as the question of accession was concerned the House had already taken the decision. You have already accepted and ratified the State's accession to India it is now an inalienable part of India. In that policy statement which I have quoted above the following statements regarding accession are also contained.

“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 the people have begun to ask

themselves, after three and a half years of tense expectancy, ‘Is there any solution? Our answer is in the affirmative every thing round the genuineness of the will to find a solution. If we face the issue straight the solution is simple”. This is quoted from the policy statement read out to this house by Sheikh Mohammad Abdullah on 5th November 1951. I may mention here that up to that time he was rightly representing the will of the people and he was their Leader. The House was forced to pull him down from that high pedestal of Leadership when he was no longer representing the will of the people. In the same statement he says.

“Was Pakistan’s action in invading Kashmir in 1947 morally and legally correct judged by any norm of international behaviour. Sir own Dixon’s verdict on this issue is perfectly plain. In unambiguous term he declared, Pakistan an aggressor. Secondly, was the 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 or authority”. Again he says; “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 that force of logic dictates the conclusion that the aggressor should withdraw his armed forces, and the U.N. should see that Pakistan gets out of the State. He also stated that “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 indefinite future. Not only has our patience been tried to its limits, but our self respect has been challenged by allegation that we are the stooges of India”. This was and is the exact expression of the feelings of the people of the state. It is a sad

feature that vent is being given to those wrong and misleading ideas once again which have already been refuted by this House. In this speech he further stated that: -

“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 affiliations 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 dealing. I have not doubt that our considered views will be understood and supported by freedom loving; peace loving and democratic minded peoples of the World”. I am of the opinion that these words are as true today as they were when they were spoken by the then Leader. In the same policy statement Sheikh Sahib stated; “ Any un-natural cleavage between religious groups in the legacy of imperialism, and no modern state can afford to encourage artificial divisions if it is to achieve progress and prosperity”. Giving his reasons why we could not join Pakistan on the basis of religious affinity he stated that; “ The Indian state, which is a throw back to medievalism, by guaranteeing the equality of rights to all citizens irrespective of their religion, caste, colour or creed”. 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 amenity in political principles, as well as in the past association and our common paths of suffering in the cause of freedom must be weighed properly while deciding the future of the State. Thus unity of our ideals and common interests made us decide in favour of India as back as 1951 when

this decision was taken”. The Drafting Committee kept this decision of yours in mind while pronouncing upon the accession issue. Decision in fact was already taken by you. The above quoted statement clearly shows that our whole movement gravitated towards India our ideals, aims and aspiration could only find fulfillment in the secular democracy of India. Thus the same spirit prevailed our decision about accession issue. I have gone into so many details with a view to prove that at the time of convening the Constituent Assembly it was made clear that the sole organ of self-determination of our people was the Constituent Assembly. This policy was adopted by the then leadership and endorsed by the House. I am proud that we have carried out our behest with which the Assembly entrusted us.

The draft envisages a state based on Socialistic pattern. In the chapter which deals with the Permanent Residents. One will find that freedom of speech; of press of association have been guaranteed to every citizen irrespective of caste, colour of creed. On economic plan the Draft guarantees the right of property to all. It guarantees that no person can be deprived of his property illegally by another person simply because he has a large capital. Chances of exploitation of the poor by the capitalists have been obliterated. This protection has been guaranteed to the residents of the State in pursuance of the economic policy of National Conference. The communal minded Hindus oppose this on the plea that the intention of this clause is to enrich Muslims on the cost of Hindus. On the other extreme the Muslim communalists say that this clause aims at bettering the lot of Hindus at the cost of Muslims. These arguments make no sense and depict the ignorance of the antagonists about the economic problems before the nation. We have made provision with a view to preventing the concentration of wealth in the hands of a few.

It has been our honest endeavour to draft the constitution in such a way as to be true to the spirit of our freedom movement and to fulfill all the hopes and aspirations of the people of our state. You will find it for yourself that we have tried to make all the aims and ideals practicable as far as possible. I cannot say whether we have succeeded in our endeavour or not? While going through the Draft, I am sure, that you will find it to have been modeled as far as possible on the lines of the policy statement. Unity and integrity of the state has been maintained. We have not allowed any sectional or communal consideration to influence our judgment. We could not think in terms of Hindu, Muslim or Sikh or else in terms of language. We have not for a moment allowed language or religion to create communal tension and separatist tendencies. Our honest endeavour has been to keep intact the spirit of nationalism. We have tried to provide all with equal opportunities of progress. This will ensure cooperation of the nation with the Government so far as distribution of power between the Centre and our State is concerned you will find for yourself that all those powers which of necessity must belong to the Centre have been given to the Union Government. All those powers which were already with the Centre have been left as such.

About citizenship of India my humble submission is that on going through the Draft you will find that residents of this State are as good citizens of India as are the residents of various states of the Union. Our State is as good a part of India as any other province or State is. Our State is an inalienable part of India. In other States of Indian Union the expenditure defrayed by the state Governments is audited by auditor General of India. Now we have recommended that Auditor General should also audit the

accounts of this state and submit his report through the Sadar-I-Riyasat of the State for being discussed by the House. In every state of the Indian Union the people have equal chances to join the public services irrespective of colour, caste or creed; the same procedure has been recommended for this state also.

In 1953 an agreement about distribution of subjects was arrived at in Delhi between the Government of India and our State Government. The Constituent Assembly also had already ratified that Delhi Agreement. The state was given a special privilege to have her own independent Legislature Election Commission and public Service commission. By this I mean to emphasis that all those special constitutional privileges, which our state enjoyed prior to 1953, are enjoyed by her even today. In other words the State enjoys the same amount of internal autonomy which it sude to enjoy prior to 1953.

I have nothing to add about the authority of President and Supreme Court over the State or about the Fundamental Rights, because decision about them has already been taken by the State Constituent Assembly. I fail to understand how the opposition has a cheek to say that we have transferred some new subjects to the Center. It seems to be a propaganda stunt. If for arguments sake I may admit that we have transferred some additional subject to the Union, what then? We have transferred it to ourselves, as we are a part of the whole Union. In short we have transferred only those subjects to the Centre which by their very nature ought to belong to the Centre and in the remaining ones we enjoy complete internal autonomy. The powers which by nature ought to belong to the Parliament of India or Supreme Court of India have already been transferred to them by the Constituent Assembly. About such subjects you will not find any reference in the Draft constitution. In

chapter IV you will find the definition and rights of the permanent Residents of the State. In short in drafting the constitution we have followed and principles lay down in the New Kashmir Programme.

So far as permanent residents of the State are concerned or the fundamental policy is concerned I may add that we have been guided by the decisions of this House.

The Judiciary has been separated from the Executive. Every citizen can approach the High Court to obtain justice or get his grievances redressed. We have given Constitutional protections to the Civil Servants. Now no longer will any civil servant depend upon the sweet will of his officer. He has been given the right to plead his case before any action is taken against him. In short our civil servants have been given all those rights, which their counterparts in India enjoy.

I am of the opinion that the House will get enough time to go through this Draft carefully. The Draft is neither too long nor as short as could be explained in a few minutes. The House has passed through many critical stages from the time of its inception. Up to date and now finally we will have to pronounce whether or not this Draft is up to the ideals, wishes, and aspirations we have had during this long struggle for freedom. I maintain that every member is free to express his opinion about the Draft. But I may add that if you view the whole Draft objectively you will find that it is an exact expression of the hopes and aspirations of the whole Nation as well as of this House. This objectivity I feel sure will lead us to form a right opinion.

Our two learned friends have submitted a note of dissent. There is no fundamental point, which is dividing them from us. They have differed from the majority on the question of number of members of House. They wish to change the number of members. Sardar Harbans Singh Azad has proposed

that two Sikh seats be reserved. It will be found that even the Drafting Committee had made some recommendations, as it is evident from the letter of the Chairman of the Drafting Committee, which reads as follows:

“The committee, however, ventures to suggest that the provisions in Part VII, relating to the Judiciary, which are in accordance with the directive contained in the Basic Principles Committee’s Report in this behalf may be altered to the extent that the power of appointment and removal of High Court Judges be vested in the President. In the opinion of the Committee this procedure would inspire the people with greater confidence in its independence and impartiality.

With regard to chapter on Legislature, the Drafting Committee has envisaged the creation of the Legislative Council. It is suggested that consideration may be given to the desirability of ensuring representation in it of all the weaker sections including the Sikhs”.

The Drafting Committee has tried to give concrete shape to the ideals, aspirations and hopes of the people and the same are contained in the Draft placed before the House for consideration. With these words I second the motion.

***Bakshi Ghulam Mohd.** : Mr. President sir, on behalf of the Drafting Committee Messer Dogra and Qasim, as Chairman and secretary of the committee have presented the Draft Constitution before the House. Both Mr. Dogra and Mir Qasim have amply thrown light on the salient features of the Draft. I will not take much time of the House. I will only deal with the general features of the Draft.

The draft Constitution, which is before the Hon’ble members of the House, is a draft, which reflects the ideals aspirations and hopes of lakhs of

people inhabiting the provinces of Ladakh, Jammu and Kashmir. The draft has only been introduced today so I feel that general discussion will take place sometime later.

I, for one, congratulate the members of the drafting committee who had made a successful bid to give concrete constitutional shape to the programmes of National Conference and has endeavored to meet the needs of the time. The draft fulfills the requirements of the time as much as it fulfils the aspirations of the people. I am proud to say that we have fulfilled all those promises, which we held out to the people. The House today is going to give to the nation a constitution. It is perhaps after centuries that for the first time in our history such an august occasion have come in our national life. I will congratulate every Member when the draft is adopted and Constitution finalized but meanwhile I cannot help myself congratulating the member of the drafting Committee. The Indian Leaders as well as the Nation has chosen the socialistic pattern for their society. We too have followed suit and thus the draft embodies that principle which the great leader of Indian people Shri Jawahar Lal Nehru has proclaimed and recommended for India people of the State and National Conference have also agreed to adopt the same principle for our State. Today those hopes and aspiration of the people of various classes and groups for which they have been hankering for centuries are being realized. The draft guarantees the unity and integrity of the State which no power on earth can destroy or temper with.

I am sure that the Draft will go far in silencing the opponents by dispelling their doubts and misconceptions . I have gone through the Draft in a casual and cursory manner still I feel that the Drafting Committee has taken every aspect into their consideration.

The Draft guarantees equality, social and political to every resident of State, irrespective of his social status. Every one will have equal rights and privileges irrespective of color, caste or creed. Every citizen has been guaranteed equal opportunity of progress.

Hon'ble Mir Qasim referred to a few points in his speech. One of the points was the question of State's accession to India. He has shown that the Drafting Committee was guided in its deliberations by the principles laid down in the inaugural speech of Sheikh Mohd. Abdullah delivered in this House on 5th November 1951. I once again congratulate the Drafting Committee for having incorporated in the Draft those principles which were laid down by the then Leader of the National Conference and accepted by the House. In that inaugural speech the then leader had clearly shown what the answer of the nation to the question of acceding either to India or Pakistan or remaining independent would be. In that speech Sheikh Sahib without any reservation had stated in unequivocal terms that accession to India was the only way of our State's salvation. This expressed view of the nation has today been fulfilled by this House and not by him. In that inaugural speech it was stated that this House is a sovereign body and can decide the accession issue of the State. This House could have decided the accession issue in any way is desired because it is a sovereign House. Any decision taken by this House cannot be countermanded or set at naught by any power in the world. Today we have placed before the whole world this Draft Constitution which is an expression of the sovereign powers of this House. Therefore in the name of the country and on behalf of the forty lakh people of the State. I appeal to all the political parties and the press of the state to view this Draft as a sovereign Act of the free people of our State. I further appeal to them that while reading the Draft they should keep in view

the spirit under which it has been framed. They should keep in mind the wishes and aspiration of the people throughout their struggle for freedom. The Draft will be passed and will come into force as the constitution of the State. It will bring us one step further on the road of progress. Once again I appeal every political party of the State to sink their petty jealousies and objectively and constructively view the Draft Constitution. In their thoughts and deeds they must keep in view the unity and integrity of the State. They should not do things or think in such manner as would result in disintegration and disunity of the State. Without the unity and integrity of the State our progress is doomed. This can be achieved and strengthened by acceding to India and ratifying this irrevocable accession. I am sure that all those things which are essential for the unity, integrity and progress of the State will be found in the Draft. This will usher in an era of progress and prosperity for the Hindus, the Muslims, the Sikhs and the Buddhists living in the State.

On behalf of this House and on my own behalf I appeal to the residents of this State, may they be Hindus, Muslims, Sikhs or Christians, to consider the Draft Constitution in a cold blooded manner keeping their heads cool. That will, I have no doubt, enable them to appreciate the view taken by the Drafting Committee and my colleagues. They will find out themselves that this Draft is very key to the future progress and prosperity of the State. In short, I will repeat a Persian saying to sum up the benefit expected to accrue to the people of this State from the constitution.

Mushk Ast ki khud Ba-boyad Na Ki Atar-I Bagoyad

(Scent has its own fragrance and that is least affected by what the apothecary (a perfumer) says about it). With the presentation of this Draft

our one great responsibility is lessened which we assumed in 1953.(prolonged cheers).

For a long time past people have been crying for periodic free elections. This constitution assures that such elections will in future take place regularly. Those antagonists who used to say that we have not the least confidence of the people will get opportunity to prove their contention and their own standing. The time has come for my colleagues also to prove to the world that whatever we have done has been endorsed by the people proving thereby that we have had the confidence of the people. With the grace of God we have been able to live upto our words and I am confident that in future too we will do every thing we promise the people to do. Everything done in good faith, love and determination must succeed in the long run. I wish my country a bright future and to all its children a happy prosperity. Jai Hind. Jai Kashmir (Prolonged cheers).

***Mr. President:** - The Draft Constitution has been introduced. It will be taken up again for further discussion in the next sitting. Now, let us take up the second item of the day.

***Mr. Mir Qasim:** - Sir, I move:

“That this Assembly do accord its concurrence to the application on the lines herein set out of the following provisions of the Constitution of India to the State, namely:-

- (a) Article 149 and 150 omitting the modification made by the clause (6) of Paragraph 5 of the Constitution (Application to Jammu and Kashmir) Order, 1954;
- (b) Clause (2) of Article 151 subject to the modification that the reference to the Rajpramukh shall be construed as reference to the person for the

time being recognized by the President as the Sadar-I-Riyasat of Jammu and Kashmir; and

- (c) Entry 76 in the List I (Union List) in the Seventh Schedule omitting the modification made by sub-clause (iv) of clause (a) of paragraph 22 of the Constitution (Application to Jammu and Kashmir) Order, 1954 , in so far as it relates to this entry .

This Assembly do also authorize the Government Of Jammu and Kashmir to communicate a copy of this resolution to the Government of India for appropriate action.”

Sir, there are certain provisions of the Constitution of India which have been modified by the Constitution (Application to Jammu and Kashmir) Order, 1954, in as much as they do not apply to our State while they are applicable to other States of India. This resolution aims at getting the concurrence of this House to omit all the exceptions made in the said Order.

Under the new Constitution there will be a Consolidated Fund of the State. This fund will be operated under the authority of the Legislature. The highest auditing authority of India i.e the Auditor General will audit the accounts of the State, to see whether the authorized amount has been spent properly or not. The Auditor General is to submit his report to the Parliament of India. I hope when we will start clause by clause discussion of the Draft this point will become quite clear, if it is not so now. I have placed it before the House in order to enable the Hon'ble members to be in a position to discuss the point when appropriate time comes.

***Mr.Girdhari Lal Dogra:-**Mr. President , sir, my learned friend Mr. Mir Qasim has thoroughly explained the object of the resolution thus leaving very little for me to say. However, I intend to draw the attention of the House towards one particular point, that is: the Article and entries referred to in the Resolution are pertaining to the power of the Parliament with regard to

grants and allocation of funds to State. This resolution seeks to extend those powers to this State also. And further the Resolution aims at empowering the Auditor General to audit the accounts of the State. The Drafting Committee too arrived at this conclusion because it was felt that if any alternative agency for auditing is set up in the State that would cause an unnecessary and excessively large burden on the State treasury. The Draft Constitutions provides that the legislature should sanction the grants and it should be left to the Auditor General to see whether the grants are being properly utilized or not? He will submit his report through the Sadar-I-Riyasat and the House will then discuss the report. With this brief submission I second the resolution.

***Mr.President :** This resolution moved will also be taken up for discussion in the next sitting of the Constituent Assembly.

***Mr.President:** Next time.

***Mr. G.L.Dogra:** Sir, I move that: -

This Assembly do accord its concurrence to the application to the State of the provision enacted in the constitution (sixth Amendment) Act, 1956, amending the Constitution of India, except in so far as they relate to the amendment of the State List in the seventh schedule.

This Assembly do also authorize the Government of Jammu and Kashmir to communicate a copy of this resolution to the Government of India for appropriate action.

Mr. president, prior to this amendment to the constitution of India sales tax was included in the state list. Thus the states enjoyed the power of imposing sales tax on all or any commodity sold within their jurisdictions. There was an article protecting the rights of different states but due to the interpretation of the Supreme Court that protective clause became

inoperative. Thus one state would levy sales tax and another would get the revenue. Thus the states raised hue and cry over this forcing the Central Government to revise its decision. The Central Government appreciated their viewpoints and amended the constitution properly. Under the new amended provisions the Inter state sales tax will be levied by the centre and the receipts will be pooled together and will be apportioned among the states according to the scale adopted by the parliament. As we import large quantities of commodities so we will have to pay the sales tax but unless we make the provisions of that amendment applicable to our state we will not be entitled to receive any share. Thus in order to obtain our share out of that Inter state sales tax pool we should adopt the amendment. This explains the reasons behind the resolution.

***Mr. S.L. Saraf :**Mr. President, Sir, I stand to second the resolution. The resolution aims at obtaining for the State a share from the Inter State Sales Tax Pool and not at imposing any particular sales tax in the State. Therefore my submission is that we should pass the resolution without becoming a prey to any, misgivings.

***Mr. President :** Resolution moved. The Resolution will be taken up for further consideration in the next sitting of the constituent Assembly.

Now I request the House to permit me to adjourn the House till 22nd October, 1956. Should I take that the House accords its concurrence to do so.

Note : The house agreed.

Mr. President : Now we will meet here again on 22nd October 1956, at 11 a.m.

Note:- The House then adjourned till 22nd October, 1956 at 11a.m.

Monday, the 22nd October, 1956/6th Katik, 2013.

The Constituent Assembly met in the Constituent assembly chamber, Rajgarh Palace, Srinagar, at eleven of the O'clock.

Mr. President (Hon'ble G.M.Sadiq) in the chair.

Mr. G.M.Hamadani: On a point of information sir.

***Hon'ble President :** Hon'ble members. Before we take up the day's work, I want to say for the information of this House that sometime back correspondence between Sheikh Mohd and myself. Abdullah, who is under detention at present, had taken place. I received a telegram, from him some two or three days back, wherein he had desired that the correspondence exchanged between us may be laid on the table of the House. The matter is under my consideration at present and I am arranging that the whole correspondence may be laid on the table of this House at an appropriate time.

Mr. Abdul Gani Goni : Point of order sir, I rise to draw your attention to rule 65 of the Rules of Business and Procedure which reads as under : -

“ 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 allows the motion to be made”. As far as this Rule is concerned I would suggest that the Draft Constitution, which is under discussion, has been presented to the House on the 10th of this month. Taking that date into consideration it is only completing 12th day up to today and falls short of the required period. Secondly, as far as the members detained are concerned they have received only a few days back.

Hon’ble President: I think there is no occasion for any discussion under the rule to which the Hon’ble member has drawn my attention because the reply to his point is also contained in the same rule. The summoning of the session after twelve days implies that this was done by me in exercise of my discretionary powers under the Rules.

Mr. Mubarik Shah: Sir, I think this motion may be taken up after the consideration motion is moved.

***Mr. Abdul Khaliq Butt :** Sir, we want that the proceedings may be conducted in Urdu because we also want to take part in discussions.

***Mr. M.A.Beg :** Sir, I request in this connection that so far as the preliminary points are concerned, the proceedings pertaining to it will probably be in accordance with the constitution, laws and regulations. As regards points of order that are likely to be raised in the course of discussion similar to those which have been raised by M/S. Goni and Mubarak shah it may be pointed out that it is not possible to explain these points involving technicalities and other implication without the help of English language. Because the object of raising these points is to have the considered Rulings of the Chair thereon. In view of this we request that we may please be permitted to speak in English on these points of procedure. We are not opposed to Urdu language and moreover every speaker likes to have his

views understood by all the members but there are certain legal phrases, which we cannot have in Urdu. It is, therefore, requested that restrictions in this matter may not be imposed.

***Hon'ble President:** it would be better if Urdu language is used in the House as far as possible but in case of discussion on some legal and technical points the use of English language will not be considered to be improper.

Mr. M.A. Beg has given notice of an adjournment motion, which reads as follows: -

“ I move that this Assembly be adjourned for a period of two weeks so as to give the Government adequate time to arrange the presence in the House, of Hon'ble sheikh Mohammad Abdullah member of the constituent Assembly, now under detention”

A similar adjournment motion was presented in a previous meeting of the Constituent Assembly, which was not allowed at that time. I think a second motion of the same nature cannot be given notice of under the existing circumstances.

Mr. Mohd. Afzal Beg : No notice shall be required for a motion of adjournment of the Assembly. Sir, as is known to you. I and most of my colleagues who sit on this side of the House have been brought today after a long period of detention. I got my order of release in the Kud Detention Camp some time in the afternoon of 20th October 1956.

***Mr. Gh.Rasool Ranzu:-** Sir, you have just pointed out that notice of a similar motion was given some time back which was declared to be out of order and consequently how can notice for the same be given again in presence of the ruling on the subject.

***Hon'ble President:-** The Hon'ble member can explain his difficulties.

Mr. M.A. Beg:- From a gentleman who adorns the chair of the Legislative Assembly. I do not expect impatience. I would request that he should have patience to hear me first and so I do expect adequately that while dealing with the technicalities involved in it. It is likely to quote the relevant Rule in which his objection it to have the motion, as in the present case, ruled out. He should specifically read out that particular rule. My basic efforts, therefore, will be, Sir, to place before you such assistance as I can give for the proper transaction of the Business of the House strictly in accordance with the spirit and Rules of Business. Mr. Ghulam Rasool objected to my approach to the issue. I hope he will specifically refer to the particular Rule in accordance with which, he thinks the motion raised by me is bit or is inadmissible. That he has not done. I do not think his objection will contribute to much assistance in having the business of this House conducted in proper procedure.

So I say sir, I have given notice of this adjournment motion under Rule 25 (V) which says that the Assembly do adjourn for a particular purpose, for a particular period. Previous motion to which you seem to have made a reference, Sir, was that A. B,C or D detunes be brought before the House and be released in order to help them to participate in the business of the House . My motion is not identical with the same. It is totally different and I have demanded that this House do adjourn for a period of two weeks so as to give the Government adequate time to arrange for the release of Hon'ble Sheikh Mohd. Abdullah, a member of the Constituent Assembly, now under detention. I do not know, sir, the actual wording of the previous motion because I was under detention at that time. But if the reference is to Rule 33 under which you have given your Ruling or to which Mr.Ghulam

Rasool has referred, that question having been decided a similar or almost a similar motion cannot be raised my answer will be:-

1. According to Rule 33 such a question should have been decided by the Assembly. As you yourself said the decision to Mr. Hamdani's motion was given by the Chair and the ban expressed under rule 33 applies to the decision which is given by the Assembly. Now no other reference has been made to any other Rule. I shall feel grateful if any other reference to any Rule is given. It will be strictly in accordance with proper rules if it is conveyed to me under what particular rule my motion is hit. The nearest provision most probably will be rule 33; but that applies to cases where a decision has been taken by the members of the Assembly and not the previous case, which has been ruled out under rules vested in the President or the Speaker. Then my motion goes clean out of the provisions of the rule 33. As regards any other provision I would beg of you, sir, to let me have a reference to any other rule.
2. Secondly Sir, in rule 25, you say that a member can ask for the adjournment of the Assembly and there are no restrictions to that, except as to the context to which I shall come later. It will be very incorrect to say that since a similar question or alleged to be similar has been previously rules out, this question cannot be raised, Rules of Legislative are different. The rules of the constituent Body are much wider in their spirit and application. No doubt there are rules for the guidance of the Business of a Legislative, which might nearly hit a similar motion, but when you examine all these rules, no such provision will be found which in its strict application stands in the way of discussion of my motion.

I would, therefore, beg of you, Sir, that a discussion on the motion may be allowed. Should you feel otherwise, before expressing yourself, I would beg of you to refer me to a specific rule of the Rules of Business and procedure under which you feel some difficulty in allowing my motion.

Mr. D.P.Dhar: Sir, my Hon'ble friend Mr. Beg who seeks to move this adjournment motion does not come within the mischief of Rule 26.

Mr. Beg:- Sir, he possibly seeks to apply Rule 26.

Mr. Dhar:- I would request my Hon'ble friend Mr. Beg to listen to my arguments.

According to basic principles an adjournment motion with the same subject matter as raised through an adjournment motion already in this session, cannot be raised during the course of the same session of this House. As that particular adjournment motion, which was moved earlier, was rejected on certain grounds and those grounds. I may submit, hold good today also, and once the grounds on which the adjournment motion was based were considered by the President and also by the House, and were also declared to be out of the purview of the authority of this Assembly and on these grounds also the adjournment motion was rejected or was not admitted. The adjournment motion that is now being sought to be moved by my Hon'ble friend Mr. Beg. Contains identically the same subject matter, which was raised in the previous adjournment motion. I agree with him that rule 33 has got no application whatsoever, with this particulars matter but it is, I may submit, connected with the decision which this Assembly has already taken and relates to the subject either than that of the adjournment motion. In the present case the greatest rule to which we must pay homage is that of common sense and I would refer to that rule of commonsense, namely, that the subject matter of the adjournment motion is one which was

considered and on which proper decision was given i.e. declared inadmissible I would now submit that the present adjournment motion is trying to seek a remedy with which the present constituent Assembly has no concern. This should have come up before the Legislative Assembly where the Government functions as the Government. Here in this constituent Assembly treasury benches are nowhere and every member of the constituent Assembly has to perform his functions in relation to the making of the Constitution. It is a great misfortune that the basic character of the Constituent Assembly is confused with that of the Legislative Assembly. The present adjournment motion seeks a remedy, which no one in this House is capable of guaranteeing. Moreover, this adjournment motion has no basis even in law. You will see, sir, that the grounds of this adjournment motion are quite identical with the adjournment motion moved previously, and on which a decision was given by the Chair strictly speaking, sir, an adjournment motion in this House is inadmissible unless and until it is capable of establishing a fact which relates to the work and business of this Assembly. You will see, sir that the adjournment motion which my Hon'ble friend seeks to move is in no way connected with the business of the assembly. It relates to the detention of a particular individual who has been detained under the authority of the Law of the Land and as such that particular fact is in no way connected with the business of this Constituent Assembly. All these grounds were taken into consideration on an earlier occasion when an adjournment motion was sought to be moved in this House and the same was not admitted. The present adjournment motion raises the same subject matter and I would submit that this is quite inadmissible.

Hon'ble President: The point is that this matter has been brought before the House several times through adjournment motions.

It was on the 29th of September, that while giving my ruling on the adjournment motion of Mr. Hamdani I had made it clear that a similar motion was received even in 1953 on which I had given a ruling. Unfortunately Mr. Beg has created confusion. By mixing up rules 25,26 and 33 he has asked whether or not there is any necessity of a special notice. With regard to an adjournment motion i.e. after which period it should be given notice of. But there, is no difficulty as the main question is that there is a difference between this House and the Legislature. The object in view of which notice for adjournment motion is given in the Legislature is different. When an adjournment motion presented by the opposition in the Legislature, the object is to censure the Government and if the party presenting the adjournment motion succeeds in carrying through the motion the Government as a result thereof resigns at that time. But in the constituent Assembly the scope of the Adjournment Motion is limited and this has been explained in rule 26. The adjournment motion in the Constituent Assembly can be presented only under two circumstances. Firstly it should relate to a matter entered in the list of Business and secondly it should be with regard to any proceeding of the Assembly. I had already given a ruling in 1953 in this connection. I made it clear that the Adjournment Motion did not satisfy the requirements of rule 26 and consequently had held that no discussion can take place thereon. In the presence of that ruling it does not appear necessary to give a fresh ruling on the point. Mr. Beg is well aware of this parliamentary procedure that when a ruling is given on a certain motion it cannot be reviewed over and over again. In view of this that should be considered a final decision.

Considering that the member may not be under the impression that he had not been given a opportunity to explain his point of view I had allowed him to express his view otherwise there was no necessity to do so.

In view of the reason given above I cannot agree with Mr. Beg and consequently cannot allow the moving of the motion.

Shri G.L.Dogra : sir, the motion which I want to present before the House is that : -

“The Assembly do proceed to take into consideration the Draft constitution of Jammu and Kashmir, settled by the Drafting Committee appointed in pursuance of the Resolution of the Assembly dated: 20th October, 1953”.

Sir, when I had presented this Draft Constitution before the House, I had explained its different provisions. Now I would like to speak about its special features. The drafting Committee first wished to know as to how the draft would be appreciated both with in and outside the State. I do not want to make a lengthy speech even today. I want to invite the attention of the House to some papers of high standing which have appreciated it. “Hindu (Madras)” in its issue dated: 12th November 1956, clearly states that the constitution would lead the state to prosperity.

“ Amrit-bazar-Patrika” in its issue dated: 13th November, 1956 considers the constitution a landmark so far as the accession of the state to India and its progress is concerned. While referring to the provisions of the constitution it has remarked that this constitution will prove to be a guarantee for the general progress in the Country.

Din addition to this the paper adds that Kashmir like other Indian states was groaning under the feudalism but the progress which this state has made within a short time is remarkable. In the opinion of this paper the

present draft constitution will lead the state to a socialistic pattern and some of the provisions are identical to the provision of the Indian Constitution. As the Indian constitution is at present the best written constitution it has become necessary for the drafting Committee to take necessary help from this while framing Constitution of the State. Free press of Bombay is of the view that the Constitution of this state will put an end to the uncertain condition obtaining here and adds that its object appears to be to have a socialist democratic Government and further declares it to be a great achievement. Its Delhi correspondent⁶ has reported that it is a remarkable and unique document and thinks that all persons with a foresight will welcome this constitution.

Similarly Times of India in its issue of 12th October praises this Constitution. It has remarked” If the Constitution is worked in the spirit in which it has been drafted it will have more than equal place in the wide community of Indian people”.

Hindustan Times also commends the Constitution in its issue of 12th October. This paper is of the opinion that the Draft Constitution fulfils the desires of the state people and appreciates the directive principles.

In the Hindustan Standard which publishes simultaneously from Delhi and Calcutta special features of the draft Constitution have been given. Both this paper and the Indian Express of the 12th October, contain remarks appreciating the draft Constitution.

Bharat Joti which is owned by Free Press of Bombay has in a leading article commended the Draft Constitution and pointed out that it is very significant that the Prime Minister of Pakistan condemned the Two Nations theory on the day our Draft Constitution was presented to the

Assembly. The National Herald of Lucknow has also considered the Draft Constitution of this state as a laudable document.

Urdu papers like Prabat, Tej, Milap etc. etc, have also welcomed this Draft Constitution.

However there are certain reactionaries and communalists who have criticized the Constitution we hope to answer their criticism in detail at the conclusion of the debate. With there words I put forth the motion.

Mr. Mubarik shah: On a point of order sir. My point of order is that the copies of the Constitution were to be given to us, under rule 65, at least fifteen days before the consideration motion is produced before the House.

Now the consideration motion of this Draft constitution is before the House while the copies thereof were given to us on 18th of this month, i.e. four days back. Therefore, this consideration motion cannot be moved as provided under rule 65. Now sir, when the introduction motion was presented to the House, we were not present here but were behind bars and in Jails. Therefore, I would request you that this rule may be allowed to prevail. It is a fact, sir, that under the same rule you can exercise discretion but I think the rule is mandatory and that the discretion is to be exercised when it does not make any material difference. In my opinion I think it does make most material difference if the discretion exercised. I would therefore, requests you sir,.....

Mr. President:- I think the Hon'ble member is only wasting the time of the House. On an earlier occasion I have already rules that the objection which was raised on the same rule will not prevail.

Mr.Mubrik Shah:- No, Sir, my point is different.

Mr.President:- Obviously when the motion for consideration was made by Hon'ble G.L.Dogra, the presumption is that I have relaxed the strictness of

this rule and that is what I said at an earlier occasion, when similar objection was raised. So far as making available the copies of the Constitution is concerned. I am sure that on the same day copies were sent to all the members including those who were under detention at that time. At any rate, this discussion on the Constitution will be continued for another four days and , therefore, there is ample time for the Hon'ble members who have either had no time to go through the Constitution or for any other reason could not look at it. I think this objection is not in order and therefore, I rule it out.

Mr.Mubarik Shah:- My submission is some what different..... My objection is that.....

Mr. President:- The Hon'ble member obviously referred to Rule 65 and it is Rule 65 which lays down that the copies of the Constitution should be made available to the Hon'ble members at least 15 days before the motion for consideration is taken up and that has already been done.

Mr. Mubarik Shah:- How do you know Sir, that that has been made available to us ?

Mr. President:- The same later on says “..... unless the President in his discretion allows to be moved....” Which I have already done. Therefore, this objection of the Hon'ble member I am sorry to say, does not stand.

Mr. Mubarik Shah: As regards this 15 days period , in my case it was not even ten days. I was only two days.

Mr. D.P.Dhar: With due respects I draw your attention Sir, that some Hon'ble members of the House have made it a practice to question and discuss a final ruling of the Chair. If it is to continue, it will not be possible to carry out the smooth working in the House and it even infringes with the

basic principles of the Rules of Business. I will make one submission with regard to rule 65 and that is.....

Voices: No more discussion. Ruling has already been given on the subject.

Mr. Moh'd Afzal Beg: Sir, I am afraid that an impression is gaining ground that Mr. Mubarik Shah was questioning what you have ruled already. That impression is not correct. We do take notice of the fact that the Chair while ruling the presentation of the Draft Constitution on 10th October 1956, strict compliance with 15 days rule was not possible...

Mr. President: I have already decided this question and there should be not further discussion.

Mr. M.A. Beg: I am not reopening that question.

Mr. President: you are reopening that question in a different way.

Voices: There can be no discussion after the ruling has been given by the Chair.

Mr. Mubarik Shah: Sir, I have given notice of another adjournment motion.

Mr. President: Mr. Mubarik Shah has given notice of an adjournment motion so far as the rules are concerned, that motion can be moved only when the original motion has been moved. I think he has not forgotten the parliamentary practice, that Motion is moved after it has been seconded. The motion has not been seconded yet and therefore, Mr. Mubarik Shah's objection is premature.

***Sardar Kulbir Singh:** Sir, I may be allowed while seconding the motion presented by Mr. Dogra to draw the attention of the House to the main principles contained in the draft constitution. I would place before the House those basic principles in the light whereof the draft may be analyzed. Naturally we think whether the aspirations. Whishes and the struggle of the

people of this place which they continued to achieve this object is in conformity with the spirit of the draft. We have to see what sort of administration was existent in this state before the constituent assembly came into being. The people of this place were quite opposed to the ideals of that administration and they wanted to do away with those ideals. As a result of this they wanted to see to what extent their aspirations have been envisaged in the draft. Sir, it is beyond doubt that the conception of words democratic constitution is advancing to conception of words democratic constitution is advancing to wards building up a progressive democracy. First of all, I wish to invite the attention of the House to the tendencies, which prompted us to launch a struggle in our country. The people of this place were facing great odds before 1947 and before analyzing the draft constitution I would request the Hon'ble members sitting in the House to see if the draft has done away with the previous, social and political set-up of this state due to which the people were in distress. The administration of this state was mainly dependent upon autocracy and its set-up concerned only and individual group or a family. Even the economic set-up of the country had clear tendencies, which proved to be a source of trouble to the people. It contained exploitation of every type.

From the very beginning it needed a drastic change. In view of this the people of this place started a struggle against it and laid down certain principles. In order to achieve success on the basis of these principles the people had to make great sacrifices and to face difficulties. Accordingly the people of the state declared their ideals in the shape of Naya Kashmir. I would draw the attention of the Hon'ble members of this House to the programme of Naya Kashmir and request them to see whether the draft constitution fulfils all the aspirations expressed therein i.e. Naya Kashmir. In

my opinion the draft Constitution reflect all those aspirations, which were embodied in the Naya 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.

Any direct or indirect restriction of these rights, or conversely the establishment of direct or indirect privileges for any citizens or class of citizens on account of nationality, religion. race or birth, as well as the propagationalism or hatred and contempt, shall be punished by law”

Mr. M.A. Beg: sir, how long will be continue

Hon’ble President: So far I have not placed any limitation.

***Sardar Kulbir Singh:** I assure Hon’ble Beg that I will try to refer to all the provisions, which are contained in the Draft. I would, therefore, require at least thirty to forty minutes to explain the main features of the Draft I may point out that it would be an offence to acquire concessions or distinctions directly or indirectly on the basis of religion caste or family. Moreover, demand for exemptions on national racial and religious grounds and spreading hatred in the country will also be a crime.

“The establishment of a free and democratic state. Such a free and democratic State involves and egalitarian society in which equal opportunities are provided for every member for self expression and self fulfillment and the adequate minimum of civilized standard of life is assured to each member, so as to make the achievement of this equal opportunity a reality”

Sir, these were the principles, which the people of this state had adopted to make gradual progress. Despite great difficulties faced by the people they made considerable sacrifices to put themselves on the path of

progress. It was some five years back that peoples struggle met with success and they achieved sovereignty. On the basis of sovereignty a Constituent Assembly was established. Before the establishment of this Assembly it was made clear to the people as to what will be the functions of this body and in respect of what matters it will take decisions. The first and foremost object at the time of election of people's representatives was to get the future of the country decided through them. Besides this, the assembly was also required to draw up a plan of the future administration set-up and to put an end to the exploitations from all quarters, previously when desired to have a system through which the administration of the country could be run by the elected representatives. These were the main basis on which the present Constituent Assembly was convened. Before considering the draft constitution this Assembly has already given its decision on many matters, which I do not want to discuss in detail. This Assembly has given its decision particularly in regard to two or three matters on the basis of its being a sovereign body which status it assumed on a clear public verdict. There is no doubt that the matters, which have already been decided by the Assembly have found place in the draft constitution. For instance the Assembly and considered as to who will be the Head of the State, in what manner he will be elected and what will be his powers. I may point out that this matter has been decided that the administration of the country will henceforth be not run by a single man but it will function in accordance with the wishes of the people. The person who will head the administration will also have to be taken through election. The legislature, which will reflect the people's wishes, will take decision about the Head of the State by means of election.

In this way the principles set out by the people during their struggle will be put into action. The decision which this House has taken about the

Sadar-I-Riyasat is in conformity with the aspirations of the people for which the people had been fighting all along similarly, this Assembly has by virtue of authority vested in it decided that the accession of this state should be with India. Sir, I do not wish to go into the details but would request that from the very beginning the people of this state realized that the way to their prosperity if open to them lay in accession to India.

The people are fully aware of the fact that it is only in India that the way to progress and happiness is open and where democracy is in a developed state. This belief got strengthened day by day among people and in 1947; they courageously declared that they should accede to India. When Constituent Assembly began its deliberation the people's desires were reflected in the shape of a policy statement. This idea gradually developed and finally it was decided that Kashmir is an integral part of India. Similarly the social discrimination which existed in the State was also abolished and no compensation was given to the landlords for abolishing feudalism. Sir, we have now taken up the task of framing the constitution. First of all the basic Principles Committee. The Drafting Committee considered it thoroughly. The people had complete faith in this Assembly and as such gave away lands to the tillers without payment of any compensation. The Assembly proposed different ways for the progress of country. After great deliberations in the past the Assembly has brought forward the Draft Constitution. The Drafting Committee while keeping in view the report of Basic Principles Committee presented the Draft to the House after giving due thought to it.

Sir, the Draft Constitution which is now before the House reflects all the wishes and aspirations of the people which were voiced by them during their freedom struggle at different times. From the beginning to end the

Draft is consistent with all the aspirations of the people. The future effects that are likely to be created by it have full been explained vis-avis to the socialistic objectives in view. The heartfelt desire of the people of the State is envisaged in this Draft and the pattern it contains. These principles have opened a way to our progress and puts an end to all sort of exploitations. All distinctions whether class-wise or group-wise have been done away with. All such tendencies as are based on hatred have been put an end to allowing equal opportunities to all. By adopting these methods alone we can be in a position to fight against all those ideals which are opposed to democratic principles. Sir, section 13 of the Constitution has revealed to me that the provisions contained therein are exactly what the people desired during their freedom struggle. The socialistic pattern which the people desired to attain as a result of their freedom struggle under New Kashmir has fully been envisaged in the Draft. The Draft contains economic, socialistic and political principles on the basis of Justice and equality. The matter pertaining to production and other things in the country have also been paid attention to so that the people may become free from all sorts of exploitation.

The progress may be made in the following spheres:-

“Sources of production in the public sector which will be owned by the State. Co-operative sector wherein the means of production under the Co-operative system should be owned by individual or a group of individuals. In private sector an individual or a corporation will be the owner thereof provided that they will not be allowed to monopolize means of production and hoard wealth contrary to the public interests”.

In this way people on the lower level will be able to get an opportunity to better their conditions in different walks of life. Accordingly, we find provisions in the Draft Constitution, which satisfy the

aforementioned desires. Provisions for the organization of Panchayat and grant of powers to them also exist. I was saying that all such principles as are laid down in the Constitution would prove a guiding factor to the representatives who will be entrusted with the powers to run the administration. Naturally it is now clear that this Constitution is a guarantee for the attainment of all those aspirations for which the people had struggled.

Sir, when we explain these principles we naturally have to see as to what are those means that guarantee the attainment of all our objects. It is note-worthy that the judiciary of this State has been separated from the executive and declared to be independent in order to safeguard the rights of the people. If executive would deviate from the principles set down in the Constitution the judiciary is there to guarantee justice. We are resolving that for all the people of this State the road to progress. Similarly, so far as Government service is concerned, we all see there exist some principles in this respect. Chances for progress for every person are provided in the Constitution. The appointment of Public Service Commission has also been provided in the Constitution. This department would have cat powers. All qualified and efficient persons will have opportunity to get in service. There would be no restriction for any persons. Public Service Commission would definitely prove a most beneficial department for us. In former times the services happened to be earmarked for a particular community. A common man had no opportunity to better his prospects. Sir, in New Kashmir we have provided one this explicitly i.e. that there should be equal opportunities in all walks of life for all whether they may be men or women. There is a provision in the Constitution in regard to the manner the women of this State would makes progress side by side with men. Such restrictions have altogether been abolished in the Constitution as otherwise gave the woman,

folk opportunity to work with men only in the capacity of their being a subservient partners. In New Kashmir those rights for women were already provided and in the Draft Constitution we see that provisions have also been adopted.

So far as the definition of permanent residents of this state is concerned the provisions are in accordance with the wishes of the people. That definition is definitely a guarantee in this behalf. Every person of this state is a citizen of India. He can claim his rights in the manner as a citizen of India can claim. Safeguards have also been provided that a citizen of this place would enjoy certain rights, which were granted to him formerly. While defining the permanent residents of the State it has explicitly been stated that the special position which this state enjoys in the Indian Union and the parliament will be maintained. With the special privileges granted to us we can greatly be benefited when this state becomes an integral part of India. This is definitely a special guarantee for future progress of the State people.

Sir, there exists a provision in the Constitution for those people as well who due to certain reasons do not at present reside in the State. Even their rights and future prospects have been safeguarded. We have made it clear in the Draft that if any person of this place be outside the State, he would on his return be considered a regular citizen of India. A special feature of the safeguards is this that the nationals of this state despite being the citizen of India have some exclusive rights and privileges. This special position is enjoyable by the people of this State only. Besides this, in the rest of the States Governors or Rajpurmukhs are considered to be Head of that State but they are not taken on the basis of election as has been provided in the Constitution of our State. Any resident of this State can be eligible to become the Head of the State irrespective of caste or community. Or State

has been given a special position in the Indian Constitution and the parliament in view of our sustained struggle for freedom. We know that discriminations were in the past, maintained by the autocratic regime between the residents of Jammu, Kashmir, Ladakh and Poonch and it was due to this that they could not make the desired progress in the different spheres. This had caused a perpetual restlessness among the different sectors of the people and all our cultural and economic specialties disappeared during that period. Neither the people of Jammu nor that of Kashmir could develop their civilization. But in our Constitution we have guarantee and have assured the people that not only their culture and civilization would be safeguarded but opportunity would also be provided to them to attain their desired goal in this respect. On following these directions the time would soon come when old discriminations will entirely disappear, but in view of the present draft constitution there remains no such danger and our culture would have an opportunity to flourish unhindered.

People of Jammu, Kashmir and Ladakh etc. would find themselves close to each other. Before this there prevailed conditions that a Ladakhi or members of any community were not afforded facilities for the preservation of their culture and to enable them to stand on their legs. It was on account of narrow-mindedness that these people were not treated on equal basis. But in this Draft Constitution the people have been given a guarantee that he means to achieve prosperity would be amply provided to them. The barriers of narrow mindedness which were created by vested interests have now been put to an end. At last the people of Jammu and Kashmir shall to go forward as one entity and for this purpose there exists a provision in the Constitution for establishment of a Cultural Academy. Under this Cultural Academy all the languages either Kashmiri, Dogri, Bodhi, Punjabi or Pahari will

develop.....All these languages have clearly been provided with safeguards in the Constitution and that opportunities for their development have been ensured. Sir, an important fact indicated in the Constitution is to the effect that the integrity of the state which was in danger due to certain adverse ideals have been put to an end. It has been accepted that this state would exist in the shape of one Unit. Sir, I do not wish to go into details of the provisions of the Constitution because discussion has still to take thereon item wise. So far as this Constitution is concerned judiciary will be independent of the executive and the Government. This has been based on socialistic pattern of society. It is in accordance with the wishes of the public for which they had fought for during their struggle movement. The people's subsequently brought into being the establishment of the constituent Assembly so that they may fulfill their responsibilities in the light of their freedom movement in the past. The constitution definitely reflects their aspirations. I want to draw the attention of the House to one or two salient points. In this connection I want to draw the attention of the Hon'ble member who is the chairman of the drafting, Committee that except one or two items in the draft all other provisions are praiseworthy. We have expressed these sentiments through directive principles, i.e. the state shall combat ignorance, superstition fanaticism, communalism, racialism, cultural backwardness and shall seek to foster brotherhood and equality among all the communities under the aegis of a secular State.

In accordance with the a aforementioned principles no attention has been paid to one or two items i.e. with regard to prohibition etc. it is a fact that this State is a Tourist Country and Prohibition cannot be enforced here but still we should pay our attention to such parts of the country where it may appear possible. In Udampur, Kathua, Samba, and Reasi and in other

places liquor has proved to be a curse. But we have to see as to how prohibition can be enforced at these places. We have adopted the principles of the Basic principles committee and it has been stated therein that with the joint efforts of the people of the state that provision for the required changes and the desired development would be kept in view but the Drafting Committee has not touched these points. I think we should pay our attention to these requirements. Besides this there is a particular class in our state, which is highly backward. This is a fact that the Chairman of the Drafting committee had suggested reservation of some seats for this community in his introductory letter but no such clause whatsoever exists in the Draft Constitution. The grievance has to be redressed. My reference pertains to that portion of the population in the state, which consisted from seventy to eighty thousand people. This was the Sikh Community in Muzaffarbad, Mirpur and Poonch, which was uprooted due to the raids. Nearly fifty thousand people have been scattered in different parts of the state and are facing great troubles. That population is in extreme distress and finds itself unable to stand on its legs. It needs special attention of the Government for amelioration. In view of the assurance held out by the Chairman of the Drafting committee it is hoped that some solutions of the problems faced by the Sikhs would soon be found out. The draft Constitution reveals that there is a good number of people in our State who do not come within the definition of permanent residents e.g. there are such people as have no property and do not come within the provisions of clauses 1.2 and 3. The provisions, which have been referred to here, do not give them the status of citizens. I am afraid lest they may not be disfranchised due to the absence of the requisite qualifications. They can neither exercise there this right in India nor here. This question needs consideration. With these words I congratulate

the Hon'ble member who has moved the motion and also the drafting committee. This draft Constitution will definitely lead the people of the State to progress.

Hon'ble President: according to the programme of the day the meeting had to be adjourned at 1 P.M. if the Hon'ble members desire the meeting will continue till 1.30 P.M.

Voices: No Sir, No Sir.

Hon'ble President: I think the Hon'ble members do not desire to sit today beyond 1 p.m. However, before today's meeting is adjourned I would like to have by tomorrow the name of those Hon'ble members who wish to speak on this subject during the next two days, with these words I adjourn today's meeting. We will meet tomorrow at 11 A.M.

Note:- The House adjourned till 23rd October. 1956 at 11.A.M.

Tuesday, the 23rd October. 1956/6th Katik. 2013.

The constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, At 11 of the o'clock.

Mr. President (Hon'ble G.M.Sadiq) in the Chair.

Mr. President: There is a motion in the name of Mr. Mubarak Shah!

Mr. Mubarak Shah: sir, "I move that the consideration of the motion now before the House be adjourned for a period of two weeks to enable the members,, released from jail two days back to study the Draft constitution . Sir, this is a motion, which I move under sub-rule (5) (b) of Rule 25 of the

Rules of Business and procedure of the Constituent Assembly. After three years we have come here or have been brought here to participate in the deliberations of the House. More than three years have elapsed since when the Committees set up by the House in 1951 was dissolved. These committees were the Basic Principles Committee, Fundamental Rights Committee, and others. So far as the Rules of Business are concerned such a thing should not be allowed to happen. The parliamentary traditions and the sanctity of the decisions of the House demand that we ought to have been given an opportunity to explain our stand and the House ought to have first known as to what report had been prepared by the former Committees and whether they had completed the work entrusted to them. Besides these Pulse demand that the decision once taken by the House should not be again put to vote unless one fourth of the membership of the House asks for it. However, what transpired here, we do not know. We were arrested and thrown behind the bars. Thereafter, a certain gentleman demanded that the some calamity had befallen. I was the Chairman of these committees and was also a member of the Drafting committee. Though the Rules do not permit the dissolution of the committee in this way, yet fascist methods have been resorted to in doing so. It is another thing to say that the security of the stage was in danger or Kashmir was going to be turned into another Korea and peace was going to be disturbed. But the sanctity of the House demanded that we ought to have been given a chance to explain ourselves with regard to the work entrusted to us. What transpired here during these three years.....

Mr. Mir Qasim: On a point of information. Sir, I would like to know as to how his speech is relevant to his motion. Taking advantage of the adjournment motion he is making such a speech, as has no relation to the

motion. He should strictly adhere to his adjournment motion and speak within its scope. Further we have to see whether his adjournment motion has any support of the Hon'ble members or not. At this stage he cannot raise a general discussion, which is not relevant to the subject matter.

Mr. President: So far as the objection of the Hon'ble member is concerned the motion has been moved under sub-rule (5) (b) of rule 25. It is not an adjournment motion. It is a motion for adjournment of the consideration of the motion. Which is at present under discussion. Therefore, with regard to such motion there is no rule or any limitation that a certain member or members should support the motion and then alone can it be discussed. But so far as the Hon'ble member is concerned. I would point out to him that his arguments are irrelevant to the issue before the House. His motion is for the adjournment of the consideration of motion for certain reasons and so far as I have been able to understand that the members who have recently come out from detention did not have enough time to study the Draft of the Constitution. I hope that the Hon'ble Member will stick to his point and advance his arguments which are strictly relevant to the motion.

Mr. Mubarik Shah: I was submitting that many things happened here during this time, which find their reflection in this Draft Constitution. There is no denying the fact that those actions have been concealed which were resorted to during the period extending from 20th October, 1953 to this day.

The Constitution is not a thing in which you can hide realities. Constitution is the fundamental law of the land. It must reflect the aspirations of the people and those people who have struggled for liberty. During all this time we repeatedly requested the authorities to allow us to participate in the deliberations of the Constituent Assembly, in the interest of the requirements of the security of the State, but our requests were not

heeded to and were rejected. In this connection our leader Sheikh Abdullah repeatedly requested the authorities but of no avail.

I am referring to the Drafting and other Committees, simply for the reason that we were their members and it was, therefore, essential that ample time was given to us to study the Draft. On the contrary, we were thrown behind the bars and after full three years we are given a chance and released two days earlier to participate in the deliberations of the House. We are being told that the Constitution is being framed for achieving the goal of the National Movement and it is up to us to accept it or else we should leave the House. Eminent jurists and Constitutional experts worked round the clock to frame the Constitution of India, yet it took them full two and a half years to complete it and then alone were they able to give the country a democratic Constitution which reflected the sentiments and aspirations of their people. I do not want to refer to the conditions prevalent at present in the country, but when I speak I represent the sentiments and aspirations of my people and say that peaceful atmosphere should prevail in the country before we embark up on the task of constitution making. We were supplied with a copy of this Draft Constitution on 18th of October, 1956 while we were in jail. Naturally, we had no requisite material with us which could help us to understand the implications of this Draft. I was released on parole in the month of June. It was during these days that announcement with regard to the constitution making was made. I had occurred in the State during the period of my incarceration I requested the Government to extend the period of my detention, so that I could study the Draft, I also told the authorities that if they apprehended any breach of peace on account of my presence in the State in that case I was prepared to live outside the State. The Government answered that the period of people could not be extended. I had taken down

some notes during this short period of release on parole. I carried then to jail and had decided to tell my brethren to study the Draft in a dispassionate manner and not to be carried away by sentiments. But no longer did I reach the jail gates than the notes were snatched away from me. I told the authorities that if they did not find anything objectionable in these notes these should before turn to me. Thereupon, the jail authorities replied that after a day or two they would communicate their decision to me. On my enquiries about the notes, I was told that these had been submitted to the Government. The Inspector General of Prisons also could not return the notes to me. And thus it is quite plain that you have incapacitated the people to think over this issue. I mean the preparation of a constitution which is a fundamental and basic law of country. I am referring to all these things not for the purpose of getting applause or point of orders from my friends.

Mr. D.P. Dhar: Is he relating a story from the Arabian Nights?

Mr.S.L. Saraf: It is becoming a long tale.

Mr.M.A. Beg: Be patient, it is not longer than necessary (laughter).

Mr.Mubarik Shah: I have only made a passing reference to all that has happened. These things are extremely harmful for the welfare of the people and State.

I have already mentioned that this draft was supplied to us on 17th or 18th of October. Consequently we could not study it in a proper manner. About twelve days have elapsed since the draft was presented for the consideration of the House, but we were not given even this period to study and understand it. We had not imagined that we would be brought in the House. Hence, we did not give much of our attention to it. You cannot expect us to study such a big draft within a couple of days. I will, therefore, request that the consideration motion be adjourned for at least fifteen days,

so that we are able to put forth our views. I make this submission under provision to Rule 65. It is up to the House to accept or reject our views, but it is our duty to submit these. This draft is not an ordinary instrument. On the contrary, it is a document of far reaching importance. I will, therefore, again request the House to give us at least fifteen days to study it. Thereafter, the draft can be discussed. With these words I move my motion.

Mr. G.M. Hamdani: Sir, I want to submit a few words in support of the motion moved by Hon'ble Mubarik Shah. I would like to say that I was a member of the Asdic principles Committee which was entrusted with the work of framing the Constitution for the State. But I do not know how I was removed from the Committee. I endorse the views of my friend Mr. Mubarik Shah who has already said that the Constitution is not an ordinary document, but has far reaching importance even for our posterity. Most of the Political parties of the State have expressed their doubts with regard to this draft and have declared that they are not going to accept it. There should be no hurry in finalizing document of such great importance. I have sometime back pointed that the law courts of the State have found certain defects existing in the laws that we adopted here in hurry. In other countries of the world, Constitutions have been framed after due deliberations. It is, therefore, necessary that ample time be given to us to study the draft. With these words, Sir, I support the motion moved by Mr. Mubarik Shah.

Bakshi Ghulam Mohammad: Sir, a motion moved by Mr. Mubarik Shah is at present under the discussion of the House. He wants that adequate time be given to study the draft Constitution. As regards this demand it apparently seems to be a genuine one, But the facts are otherwise. I will only refer to the two points raised by Mr. Shah in his speech and submit that these are not in the least connected with the business before the House. He has related the

story of his detention and explained some incidents therewith. He has not referred to any particular event, except, of course, that he and Mr. Hamdani were the members of the Basic Principles Committee and the Committee on Fundamental Rights and they were removed from them. It is true this House removed them from these Committees. On 7th November, 1951, Mr. Beg moved two motions and thereupon the Fundamental Rights Committee and Basic Principles Committee were set up. My friends Messrs. Hamdani and Mubarik Shah were the members of these Committees. But from 1951 to 1953 these Committees did not submit any report before the House. What to talk of Constitution making.....

Mr. G.M. Hamdani: On a point of Information, Sir, was Hon'ble Bakshi Ghulam Mohammad, also a member of these Committees?

Bakshi Ghulam Mohammad: Yes, not a single line came up before the House from these Committees during all this period. Mr. S.M. Abdullah and Mr. Beg, were respectively Chairman of Basic Principles Committee and Fundamental Rights Committee. It was because of this reason that the House changed these Committees and new ones were set up in their place.

Mr. Mubarik Shah: On a point of information, Sir, was the previous decision taken by the House reopened by this House under Rule 76 or was it done through a motion moved by the Speaker?

Mr. President: It was by a Resolution of the House that the Committees were set up and later on another resolution was moved which was passed by the House and I think that so far as that procedure is concerned it was quite in order without taking recourse to the particular Rule to which Mr. Mubarik Shah refers.

Bakshi Ghulam Mohammad: It will not serve any purpose, if you distort facts. We are of the opinion that further dilly-dallying with the Constitution-

making cannot be allowed. The Constituent Assembly has to frame the Constitution. It was precisely for this purpose that it was convened. Not to prepare a Constitution for the country even after full six years have lapsed is an injustice of high order. As regards the aspiration of the people, the same are reflected by the overwhelming majority of the Hon'ble members of this House. Four or five members of this House cannot be allowed to thrust their views on the country. We cannot afford to waste any more time. It has been stated that a few organizations of the State do not approve of the Draft Constitution. This assertion is without any foundation. If he refers to the Praja Parishad, then I will submit that this organization has been voicing its opposition to our Constitution making for the last six months, but it could muster only a handful of children on 21st of October the day which it had decided to observe as a protest day. This is eloquent testimony to the strength of this organization. On the contrary, Sir, thousands of people participated in our procession and hailed the Draft Constitution. I will request the people to study this draft dispassionately. They will find it an ideal Constitution which is symbol of their entire cherished dream. Now if some one refuses to accept it because he harbours ill-will against us. I cannot but sympathise with him. You are discussing the draft clause by clause. It is up to you to bring in any amendment when and if you think advisable. All the fundamental rights have been provided for in it. We can really feel proud of it. The State of insecurity and instability has been done away with. It is an irony indeed that Mr. Mubarik Shah speaks in a different tone today. Not much time has lapsed when he and Mr. Beg. Also occupied the benches on this side of the House. Prior to 1953 hundreds of people in jails, they are provided for with all types of amenities. Mr. Shah maintains that he has only once attended this House after 1953, but it is not a fact; it is for the third

time that he is participating in the deliberations of the House after the change of Government. Now an opportunity has been given to him to see for himself the work we are at present doing for our country. Our cards are on the table. We do not hide things from anybody. I had not intention of referring to these things, but I am forced to do so, because some of our friends want to create confusion by distorting facts. We are today framing the Constitution of our country. All of the Hon'ble members have equal rights in this House. If some one feels that the draft is a defective one, he can gladly suggest amendments and we will try to incorporate these in our constitution, if acceptable. Naturally, we cannot appreciate the obstructionist tactics of any member. You cannot achieve your ends by distorting facts or hiding realities. It has been said that it took the Indian Parliament two and a half years to frame the Constitution, but we have already spent six years. We should try to frame it as soon as possible. My friends should not oppose our measures for opposition sake and should give up the tactics they have adopted. I, therefore, oppose the motion moved by Mr. Mubarik Shah and hope he will withdraw it.

Mr. President: Unfortunately some of the members have forgotten the decorum of the House. When the President is standing, no other member should stand. Yesterday, I notice that whenever I stood up, some of the Hon'ble members also remained standing in their seats, which is not proper. Should I expect that such a thing will not be repeated?

Now I will ask Mr. Mubarik Shah whether he will press his motion or not?

Mr.Mubarik Shah: Yes Sir, I press it.

Mr.President: The question is; that the consideration of the motion now before the House be adjourned for a period of two weeks to enable the members, released from jail, two days back, to study the Draft Constitution.

Note:- The motion was negative.

Sardar Harbans Singh Azad: Sir, Shah Sahib taxed our patience by delivering a long speech. It was as meaningless as it was long. I am sure that his friends also feel like that.

His main contention is that since he was in jail, therefore, more time should be given to him to study this draft constitution I may assure him, that if he is given two months or even one year more to study the draft, he will not even then change his views. The Draft Constitution before us is in keeping with Delhi Agreement and the Policy Statement of Sheikh Abdullah. I maintain that if he shows us anything in it which is contrary to Delhi Agreement. I will, in that case ask for four week's postponement of the consideration of the motion,

Mr. President: Hon'ble member must know that the House has already decided this question.

S.Harbans Singh Azad: Sir, I want to submit a few words before the House. The House knows that during 1952 the then Government of Kashmir entered into an agreement with the Government of India with regard to their mutual relations. This agreement is known as Delhi Agreement. The present Draft Constitution has been framed in the light of this agreement. All matters such as residuary powers or adoption of flag etc. have been retained in the draft as they were provided for in the Delhi Agreement. This agreement had accepted the principle of Financial Integration and we have provided for this in our Draft Constitution. It is alleged that this draft is the result of an intrigue, but I may tell such people who talk in this vain that this Draft Constitution embodies all the decisions that the House took from time to time in connection with the Constitution making for our state. It is provided for in the Directive Principles:-

“The Prime object of the State consistent with the ideals and objectives of the freedom movement envisaged in New Kashmir shall be the promotion of the welfare of the mass of the people by establishing and preserving a socialistic order of society.”

This draft has been framed in accordance with the above mentioned aims. Sir, there are two types of criticism leveled against this draft. One section of the critics says that a separate Constitution has been framed for the State and that very few powers have been delegated to the Sadar-i-Riyasat and that he has been turned into a tool of Legislature and the Government. The other section maintains that the Sadar-i-Riyasat has been vested with too many powers. Such critics maintain their positions by indulging in this type of criticism.

It has been provided for in the Delhi Agreement that the people of the State will enjoy special privileges. According to such clause (5) Article 19 of the Constitution of India the Government has been empowered to enact laws for the scheduled castes and scheduled tribes to reserve adequate seats in services for them. In U.P Bombay and Central Provinces etc. the Government from time to time has adopted measures with this purpose in view, but no such provisions have been laid down in this Draft Constitution.

From various quarters it is alleged that the rights formerly enjoyed by the State Subjects have now been abolished and the Muslim majority is being turned into a minority. But the Draft Constitution is before you and you won't find any Article in it which will give rise to any such apprehension. Necessary provision has been kept in this draft for the return of those State Subjects who left the State during the disturbance of 1947 and who now want to come back and settle here. These people will be

considered as the citizens of the State. This propaganda is, therefore, entirely baseless.

It is being alleged that the Sadar-i-Riyasat will be turned into a tool of the Party in Power. This I will say is a malicious piece of propaganda, because the Sadar-i-Riyasat will have almost such powers as are enjoyed by the Governor of various Indian Provinces. In addition to this, our Sadar-i-Riyasat, will be elected while the Governors are nominated by the President of India. Now so far as this assertion is concerned that we have framed a separate Constitution for our State, I will tell the critics that this has been done in accordance with Article 370 of the Indian Constitution. The citizenship rights and the powers of executive. The judiciary and Legislature etc. have been fully defined. Similarly, High Court has been empowered to control the subordinate Courts without any interference from the executive. The appointment or removal of High Court Judges will be in the hands of the Sadar-i-Riyasat. As is obvious we have framed the draft in accordance with the spirit and contents of the Constitution of India, with this exception of course that in case of land reforms we have gone a step further because we have already introduced them in our State. We have made the services secure and have provided necessary safeguard, for them since the services constitute an important part of any democratic government. In this connection Mr. Joseph Chamberlain once remarked that

“a Government can run without a parliamentary democracy, but a Government cannot run without services”.

We have also set up a Public Service Commission and an Election Commission. The Chairman of these Commissions will be appointed by the Sadar-i-Riyasat. Necessary safeguards have been provided against Public Service Commission assuming too many powers. The Commission will have

to accept the directions of the Government. The Election Commission will not be influenced by anyone is discharging its duties. It will work out in the draft for the development of the regional languages. An Academy is being set up for the development of our culture and languages. In fact the Draft Constitution is an ideal constitution in the given conditions. The Drafting Committee has recommended that the Government should try to establish a socialistic order of Society in the State in accordance with the directives of the Basic Principles Committee so that in due courses of time when the financial position of the State becomes stable all the citizens may get work to do. Besides, education up to M.A. standard is free in our state. You will not find such an example anywhere else in the World. All these things have been incorporated in the Draft. Further, most of our Constitution is framed in accordance with the Constitution of India. Therefore, all such people who criticize us for not framing the draft on the lines of the Constitution of India are not only wrong but their attitude tantamount to spreading falsehood. For those of our friends who say that they have not been given time to study the draft. I will say that the draft has been prepared on the lines of the policy enunciated by S.M. Abdullah some five years back in this connection he said:-

“After centuries, we have reached the harbour of our freedom, a freedom, which, for the first time in history, will enable the people of Jammu and Kashmir, who’s duly elected representative as are gathered here, to shape the future of their country after wise deliberations, and mould their future organs of 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.”

The Policy Statement of Sheikh Abdullah was approved by the House and this draft has been prepared in accordance with the spirit of this statement. Except of course, we could not associate ourselves with the poisonous propaganda which he launched later. However, this thing can be said with confidence that we have prepared the draft in accordance with the decisions the House took from time to time. Our relationship with India has been expressed in unequivocal terms. We have acceded to glorious country which guarantees our glorious future.

I will again repeat that this Draft Constitution has been prepared in accordance with the wishes and aspirations of our people.

With these words, Sir, I congratulate the Drafting Committee for preparing such a draft which embodies all that we have been fighting for in the past.

Mr. Krishan Dev Sethi: Sir, the Draft Constitution which is at present before the House has been prepared in accordance with the various decisions this House took from time to time.

The Hon'ble Members of the House probably remember that when the Security Council failed to do justice to the people of Kashmir, the General Council of the only representative organization of the State. The National Conference decided to convene a Constituent Assembly. This Assembly was not only to approve the abolition of Landlordism without compensation and the abolition of the institution of hereditary monarchy but had also to rectify our accession with India. I take this opportunity to congratulate the Drafting Committee for preparing such a draft as reflects the aspirations and sentiments of the millions of our people. According to Article 3 of the Draft Constitution, this State has been declared to be an irrevocable part of the Indian Union. In article 5 of the said draft it has been provided that: "The executive and legislative power of the State extends to all matters except

those with respect to which parliament has power to make laws for the State under the provisions of the Constitution of India. I mean that all those powers which were enjoyed by us under the Delhi Agreement or Presidential Order have been kept with our legislature. It follows from it that the propaganda to the effect that our State has been mortgaged away is motivated by malevolent intentions Muslim communalists allege that the Government and people I will say that the Government and the people of India are the best guarantee of our freedom Hindu communalists also criticize us and say that we want to secede from India, but article 149 of the Draft Constitution belies their assertion. It is obvious that the objection raised by Muslim and Hindu communalists has no substance. After the promulgation of the Constitution all the powers will vest with the State legislature which will be elected on the basis of adult suffrage. Thus in reality all the powers will vest with the people. With the passing of the Constitution the uncertainty that was prevalent in the State will go.

Sir, as is known to everyone, the National Conference wants to establish a classless society in our country where every citizen will get a chance to register progress in all walks of life. It is, therefore, essential that we fix a time limit in the Constitution in this behalf when it will be obligatory on the Government to provide work to the people. The Directive Principles make sense only if we fix up sometime for their implementation. It is true that we cannot build a socialistic society within days but we will have to fix a time limit for providing work to every citizen of the State. Special provisions exist in the Draft for the backward classes and the permanent residents of the State. It goes without saying that the rights of the residents of the State should be guaranteed, but some rights should also be conferred to such people who came here for trade etc. They should be

granted the right to vote as is granted in other Commonwealth Countries to such people of foreign origin who temporarily settle there even for as short a period as six months.

The establishment of a Public Service Commission will go a long way in stabilizing the services.

It needs to be we will amend the Constitution in certain respects as was done in India. Where they have abolished the institutions of Raj-pramukhs etc. I think that the Sadr-i-Riyasat has been given wide powers. According to section 92 of the Draft he can suspend the constitution or any part thereof and can dissolve the Assembly etc. We must not give so wide powers to the Sadr-i-Riyasat. We should provide special provision for the advancement of the scheduled castes and scheduled tribes. We can include the Gujjars and Bakarwals among these, because they are also very backward.

An Upper House has been provided for in the Draft Constitution, but I think we do not require it. It should be borne in mind that we can build up a real union of various units of the State only by respecting the sentiments and traditions of the people thereof and not by any coercion. In the interests of administration Punjab has been divided into two zones. We must also set up Provincial Councils in the State for running the administration. Some powers with regard to advancement of education, languages and culture etc. should be delegated to these Councils. It is said that if we set up Provincial Council it will create dis-unity in the State, but such ideas are out-dated. An everlasting unity can be established only on the basis of equality. If we set up regional councils we will not be in any way weakening the relations of Jammu and Kashmir. On the other hand our relations will be cemented. We should not agree with the proposal of setting up of an Upper House. The setting up of the Upper House is meant only to bring in such people in the

Legislature who cannot otherwise be elected to it. I will, therefore, request the House to consider my suggestions at the time of taking a decision on this Draft Constitution. These are:-

Firstly, it is essential to fix up a time limit for providing employment to the people.

Secondly, the wide powers proposed to be given to the Sadar-i-Riyasat should be limited;

Thirdly, the rights of the permanent residents should be safeguarded, but at least right to vote should be granted to such people who come here for trade and live in the State for at least six months;

Fourthly, seats should be reserved for scheduled tribes as well, in the way these have been reserved for the scheduled castes;

Fifthly, the services should be made secure the way these have been made secure in India and finally we must grant provincial autonomy to various Constituent units of the State.

With these words, Sir, I conclude my speech and hope that the Hon'ble members will agree with me.

Mr. Ghulam Mohammad Jalib: Sir, the work that is performed with sincerity always bears fruit. The Draft Constitution at present before the House embodies the programme of the National Conference and fulfils the requirements of the time. I have put the impression I gathered after studying it into verse. I seek your permission, Sir, to submit the same before the House.

Mr. President: We are not participating in a poetic symposium. So you will put forth views in prose.

Mr. Jalib: Alright, Sir, I will of course present these verses in the form of a document and these should constitute a part of the proceedings.

Sir, after having a cursory glance at the Draft I have found that the salient features of the Constitution are that:-

The State will be an integral part of the Indian Union. The territories at present under enemy occupation are also a part of the State. A socialistic pattern of society will be established in the State. Work will be provided to every able bodied citizen of the State. Communalism and sectarianism are to be done away with for all times to come. All possible steps will be taken to widen technical and adult education. Freedom of speech expression and conscience is guaranteed. The Sadar-i-Riyasat will be elected by the Legislature. The Legislature will consist of two Houses. The Election to the State Legislature will be conducted on the basis of adult suffrage. A public Service Commission will be set up for recruiting the personnel of Government administration. The Sadar-i-Riyasat will have the powers to appoint High Court Judges. Urdu will be the State language. An Academy will be set up to develop the regional languages. In short, the present Constitution embodies all that we were fighting for all these years. The sacrifices we made during our freedom struggle have borne fruit and this draft symbolizes these. We are now a free country. We can now consider ourselves a civilized country. With these words, Sir, I support the consideration motion.

Mr. Abdul Aziz Shawal: Sir, the people of the State waged a long and heroic struggle for the establishment of a democratic order of Government in the State and for eradicating poverty and ignorance of the common folk of our country. The Draft Constitution that Mr. Dogra presented before the House embodies the above mentioned aims of our people. In the course of our freedom struggle we had to surmount hurdles and align ourselves with progressive forces in the sub- continent. Our experience taught us that we

should and must accede to the dominion which is based on secularism, since then alone could our cherished programme rectify and our people get an opportunity of registering all round development. It is, therefore, we have acceded to the Indian Union and today we are giving a final shape to our decision those of our friends, who are emotional and judge things from a religious point of view should know that we have not decided the question of accession on religious basis (Cheers) It should be borne in mind that religion has nothing to do with such things. We cannot allow our people to be divided. We are determined to remove poverty and squalor from our country. Religion has nothing to do with social economic or political matters.

Some of our friends have accused us of hoodwinking the masses by passing the Constitution, but I would like to remind them that people of the State have elected the Assembly without any interference and their representatives are today framing a Constitution for them and their representatives are deciding the question of accession without any fear and in a peaceful atmosphere.

It has been stated by some of the Hon'ble Members that there are some defects in the draft. In this connection Mr. Sethi has mentioned that Sadar-i-Riyasat has been given wide powers. I would like to submit that in every country where people framed their Constitution they gave more powers to their heads of the State, since the person who occupies such an exalted position must be invested with adequate powers. He has to safeguarded the right if minorities and protect the rights of all the citizens. If the Head of the State is not given wide powers. I am afraid we will be repudiating our past decisions. Special safeguards have been provided for the backward classes in the draft. I am of the opinion that no such steps

should be taken. We want to weld the people of the State in one homogeneous whole. It is not, therefore, advisable to divide them in sections, we should not allow our people to be disrupted in the name of Harijans and non-Harijans or Jammuities or Kashmiris. This will cut through the unity of the State.

Sethi Sahib has put forth a demand to the effect that right to vote should be given to such outsiders who came here for trade and settle here, but I think I cannot agree to it, as it is against the interests of our country. In fact the draft constitution embodies the aspirations and cherished desires of our people. In the end, I would like to remark that by providing two chambers for our legislature our leadership has taken a commendable step. It will help us to bring our veterans into the legislature who will in return help us to shape the destiny of our country and build a new life.

With these words, Sir,. I lend my support to the consideration motion moved by Hon'ble G.L.Dogra.

Mr.Abdul Kabir Khan: Sir, permit me to express a few words in support of the motion moved by Shri G.L.Dogra. Blessed are those sons of the soil who laid their lives in the freedom struggle of the State. It is because of the sacrifices of those martyrs that today we are in a position to give a Constitution to our country. We have framed our Constitution on the lines of the "New Kashmir". We have today finalized our accession with the Indian Union and it has now become irrevocable. We must thank Almighty, for we have fulfilled the promises we had made to the people. Since there is very little time at my disposal. I will, therefore, conclude my speech.

Mr. President: With this closes the business for today. We will meet here again tomorrow at 11 A.M.

Note:- The Assembly then adjourned till 11 A.M. of the O'clock tomorrow, the 24th of October, 1956.

Wednesday, the 24th October, 1956/8th Katik 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palaces, Srinagar, at Eleven of the O'clock.

Mr. President (Hon'ble G.M. Sadiq) in the Chair.

Hon'ble President: Mr. M.A. Beg.

Mirza Mohammad Afzal Beg: Mr. President I take this opportunity for the first time in this House to express my views frankly and freely in regard to the Draft Constitution that is before the House.

Shrimati Ishwar Devi Mani: On a point of order, Sir, we want to hear his speech in Urdu. Mr. M.A. Beg: In deference to the wishes of Mrs. Mani I will try to convey the substance of my speech in Urdu. I may, however, be excused if somewhere I use some English words.

I was saying that for the first time I shall be expressing my views on the Draft Constitution now before the House. I have made, and so have my colleagues, all possible efforts to gain sometime and find, if it was possible, to adopt some course which at this critical moment would evolve a way out reflecting the wishes of the people as well as help find an honourable solution of the matter before us. For various reasons that has not been possible and the House has continued its deliberations without break on this important document. I am, therefore, making these observations properly considered and duly thought outland, of course, because that is the only honorable and one single course left open to me and those who feel with me. It will not be possible for me to give our detailed views on this document in my speech. I shall try only to speak perhaps about a single word or expression in the Draft Constitution, which throws light and flood of light on

the mind behind the document show it has been conceived and what will be its consequences. Nevertheless, I will be giving my considered views and the views of my colleagues in regard to this fundamental document. Mr. President, you are not unaware of the fact that constitution making perhaps occupies the most vital and important place in the development of political history of a country. In my humble way nothing has been a greater ambition in my mind than to lend a hand as far as possible for drafting a constitution according to the aspirations of the people. But that was not to be, and in fact, I dare say, for none of our fault.

We shall, however, try to put in our efforts to the last moment possible to represent the wishes of the people and also to guide as best as we can to the goal which they set themselves in 1943 when they drafted/adopted that momentous document known as “New Kashmir”. Therefore, Sir, Whatever I say now....let it not be understood by any chance that we do not recognize that grave responsibility which still is on our shoulders and which owe to the people of this land. With these preliminary remarks I draw your attention to the fact that this question of Constitution-making is most fundamental. I have no leisure and time enough to tell you in detail what sort of climate is indispensable for drafting a Constitution. Because of those fundamental facts. Mr. President, I am sure, you are aware and some gentlemen who are here are also aware that nothing can be more vital and more fundamental for a people than a stage which comes in their political history for framing a constitution which governs the lives of the people and their future generations, economically, politically and socially. In this connection, I do not want to quote the instances of other countries. But one instance is quite fresh in our minds, when the alien power i.e; British decided to give this country freedom for which the prominent political

parties in India had given innumerable sacrifices. The British did it after full deliberations and considerations which were highly necessary for proper climate for drafting a constitution. Many politicians who were in jails were set free, repressive laws were repealed and all restrictive actions were withdrawn. In this way an atmosphere was introduced in the country with a view to ensure a peaceful way and calm atmosphere for serious consideration required for framing a fundamental law. Here, Sir, what was done? I do not deny the fact that five of us who served various periods of detention were brought to this House straight from prison on the eve of second stage i.e. for the consideration of this document.

But let me say, Sir, the soul of the Assembly, Sheikh Mohammad Abdullah, in whose name and who can deny it we mobilized the country, inspired the country and sought vote of the people in 1951 in order to bring into this House.

Even after his illegal and un-constitutional deposition on 9th August, 1953. Pandit Jawahir Lal Nehru, In Parliament referred to Sheikh Sahib as the acknowledged leader of the people and to this day, Mr. President, he holds that position, unquestionably and irrefutably. There is not use denying it in the face of the facts and if there is any difference in his popularity after 9th August it is for the better that is his popularity and honour amongst the masses if the State is unprecedented. It is an unfortunate thing that he is missing here today and we do not find him amongst ourselves. Leave aside whatever charges some people tried to level on him baseless and without foundation as they are.... And leave aside that no one can deny that at least he is as much a member of the Assembly today as me and other M.C.A's who have been brought from detention. We had requested that Government be given time to produce him before the House but that request has not been

acceded to. While the fact is that in our warrant of release it was stated by the Government that since the Session of the Constituent Assembly was going to be held and since the Assembly was going to hold discussion on the Constitution and as we are members of the Assembly, we should be released. When these conditions are applicable to us these are identically applicable to Sheikh Sahib also.

I would say that the part played by the Congress against the Colonial Powers in India is certainly remarkable but you should have seen that they restored peace, calm and amity in the country at the time of Constitution making. Though Congress has given them a fight which the British could not easily forget in spite of that they tried their best to keep peace and calm in the country. But you could not act even like the much maligned British. On my release what do I see here that Srinagar is still groaning under Section 50 which is applicable even to private places not to talk of public places? The Constitution is being discussed within the four walls of this Chamber but outside it public meetings and private discussions are banned. Mr. President you belong to that school of thought which will not deny the obligation that millions of copies of this document in a language intelligible to a common man should have been distributed and for months we should have allowed the people to discuss it. But it has not been made for detention without trial and such a detention can be extended up to a period of five years. The number of victims if these monstrous laws are not small. Unlike this, when the question of discussion on independence arose between Congress leaders and the British, the alien British always tried to create peace and calm in the country. Here it is not possible and yet it is claimed that we are considering this document in a free atmosphere. I will not quote the instances of other countries. But in this atmosphere it is not possible to know the wishes of the

people, nor reactions of the people or frank and free expressions on this Constitution I will not go into the details of the Constitution nor do I find any necessity for that.

Up to this time I have referred to an atmosphere that has been created throughout the country under the Preventive Detention Act and Section 50 of the Defence Rules imposed on Srinagar. You have assembled here to consider a basic document i.e. a constitution for the country but the atmosphere prevailing is of such a nature that no meeting etc. can be held. You are putting in your signatures on such a document as is closely linked with your future social, political and economic life. You are not only taking a final decision but also sealing the fate of the future progeny of the country.

No one in our country at present enjoys any freedom of expression. If someone expresses his views he is thrown behind the bars for years together.

Under Section 50 of the Defence Rules you cannot hold even private meetings in your houses. The British who dominated India were, no doubt, notorious for their actions, but when the time of Constitution making for India came; they set the Congress leaders at liberty and helped to create such atmosphere in the country as was conducive to framing the constitution. I do not intend to discuss the details of the constitution and, neither, do I feel any necessity of doing so.

Mr.S.L. Saraf: We wish to hear that also.

Mr.M.A. Beg: In spite of my requests yesterday to have patience you still continue shouting. This is the occasion of general discussion and there is no question of going into details Sir, I again draw your attention but I hope I can count a little more on your indulgence and get an opportunity to express myself more freely, as I have done hitherto. I will draw your and my friends' attention towards the preamble of this document only. About preamble it is

said that it constitutes the soul of a law, I have not got an Urdu version of it with me and, therefore, I will read out the preamble from an English copy of the Constitution.

“We, the people of the State of Jammu and Kashmir, having solemnly resolved, in pursuance of the accession of this State to India which took place on the twenty-sixth day of October, 1947, to further define the existing relationship of the State with the Union of India as an integral part thereof, and to secure to ourselves:-

JUSTICE, social, economic and political.

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them, all;

FRATERNITY assuring the dignity of the individual and the unity of the Nation;

In our constitution assembly this, the 17th day of November, 1956, do hereby adopt enact and give to ourselves this constitution”.

An expression which occurs in it requires serious attention and, probably. I will not be able to say anything beyond explaining this expression. The expression is:-

“We, the people of the Jammu and Kashmir, having solemnly resolved, in pursuance of the accession of this State to India which took place on the 26th day of October, 1947, to further define the existing relationship of the State with the Union of India as an integral part thereof, and to secure to ourselves”.....

1947 Maharaja Hari Singh executed the instrument of accession on 26th October, 1947, and strange enough, it is being ratified today by the Drafting Committee. Prior to my comments on the legality of this accession.

I would like to mention something about the legal position of Maharaja Hari Singh.

Note:- Mr. Abdul Khaliq Butt interrupted.

Mr. M.A. Beg: Let me request the House that we should leave aside bias and personal enmity when a constitution is being framed for the country. This concerns vitally the future and honour of 40 lacs of people and it is immaterial whether it is you or I who has committed the mistake.

I was just telling you that it was Maharaja Hari Singh who got Kashmir acceded to India on 26th October, 1947, and you have assembled here to ratify this “26th October, accession” Constitutionally, it is said, sovereignty vested in him and he exercised the same on 26th October, 1947, and presented this document to the Government of India. Leave aside for a moment the action which Government of India took on it and consider the position of the Maharaja on the eve of accession. How that position was obtained should be a subject of my speech.

Kashmir was sold to Maharaja Gulab Singh by the British in lieu of 75 lakhs of rupees through 1846 sale deed. His great grant son, Maharaja Hari Singh, inherited the rulership of Kashmir acquired through the aforesaid sale deed. Today, you are confirming the accession that was executed by Maharaja Hari Singh on 26th October and which has actually originated from the treaty of Amritsar between Maharaja Gulab Singh and the English which pay no heed to the people’s sovereignty. And now the heirs of Gulab Singh have come forward to confirm the exercise of sovereignty which was exercised by Maharaja Hari Singh on 26th October, 1947, when he acceded to India. It was done without seeking the people’s will. How strange is it that you are confirming it? Only one year prior to 1947. “Quit Kashmir” agitation was launched by you. The sacrifices

preferred in the name of shattering the Amritsar Sale Deal demand that you should refrain from ratifying this accession. Unfortunately the question is presented in the shape of people being against and in favour to India. Apart from this question the constitutional; implication of the steps that you are taking is the rectification of the Treaty of 1846 entered upon by Maharaja Gulab Singh and the British which gave Maharaja his sovereign rights. What was the re-action of the Indian Government when this Instrument of Accession was presented to it? It is a matter to be considered. Nobody denies the fact that the reaction of the Indian Government was consistent with the glorious traditions of the Congress. Mr. V.P. Menon former Secretary oflate Sardar Patel, was the man who entered into negotiations with the princes in respect of the question of accession. He has written a book captioned "Integration of the States" which supports my Contention. A further testimony is provided by the documents, decisions and statements of the Government of India and the declarations of the last Governor General of India, Lord Mountbatten, which confirm Mr. Menon's observations. One of the passages of Mr. Menon's book referred to above reads as under:-

"The Instrument of Accession which I brought to Delhi, on 26th October was taken into consideration by the Defence Committee, in which Union Ministers also participated. It was decided therein that the Maharaja's Instrument of Accession be accepted conditionally, and a final decision by a reference to the people in a free atmosphere."

Mr. S.L. SAaraf: Is he quoting this information from some legal document?

Mr.President: I want to know whether the Hon'ble Member is quoting this information from some book or from some legal document.

Mr. M.A. Beg: Sir, the information cited has been taken from Lord Mountbatten's letter dated October 27, 1947, addressed to Maharaja Hari

Singh, from Pt. Jawahar Lal Nehru's radio broadcast of 2nd November, 1947, from the Indian White Paper on Kashmir issued in 1948 and from Security Council Resolution of 13th August, 1948.

Mr. S.L. Saraf: Sir, my point is whether he is quoting this information from some legal document or from some book?

Mr. M.A. Beg: For his information I may say that the book can also be a legal document. The Instrument of Accession was considered on 26th October, 1947, and accepted conditionally. The condition laid down in this behalf was that the final decision about accession would be taken by the people in a free and fair plebiscite. Mr. Menon has mentioned all about it on page 400 of his book. Sheikh Mohammad Abdullah was also present there. This is the reply to a point raised by Mr. Abdul Khaliq Butt in this connection. In the opinion of the Indian Government this accession is provisional one subject to a decision by the people through a free plebiscite. Sheikh Mohammad Abdullah too agrees to this conditional accession in this very form. It was followed by Gandhi Ji's statement. While expressing his opinion about Kashmiri's accession to India he had said it earlier also that the people of Kashmir would be sovereign and free to decide this issue after 15th August, 1947. When asked to express his opinion on the division of Kashmir, Gandhi Ji said:-

“The partition of India has already proved a disastrous evil, why carry this evil any further”.

It means that Gandhi Ji held partition of India responsible for creating a disaster and did not like it to carry to the States. Referring to us or some other elements it is said that integrity of the State is being put in jeopardy and on the pretext of defending it repressive measures are taken. But the fact is that you are presenting the illaqa lying across the cease-fire line to

Pakistan in a platter and even then you accuse us of endangering the integrity of the State. We will save the integrity of our State at all costs even if 20 lakhs of people have to be immolated. But the ultimate decision must rest with the people. The allegation that we are shattering the integrity of the State is absolutely incorrect. What we actually want is that the people of State, Hindus and Muslims all, living on either side of the cease-fire-line should work together with a common programme and under a common flag. Previously a Muslim would sacrifice his life for a Hindu and vice versa; they should, therefore, be brought together under the same spirit and then, one and all, be given the right to decide the future of the State. If you need our sacrifices for such integrity we would be the first to come forward for this purpose. No decision can be taken by following the way that you have chosen. The Indian Government had accepted our accession subject to holding of a plebiscite and Sheikh Mohammad Abdullah had agreed to this arrangement on this very condition. That his acceptance was conditional you cannot deny. I does not behave us to ask India to remove this condition. Nobody is going to prevent you from acceding to India but the means in doing so should be as clean and noble as your ends.” You may undoubtedly try to make Kashmir accede to India if you adopt clean and noble means. And this should be done on the basis of a free and impartial plebiscite. You are not adding to the prestige of India by asking her to renounce her promises and cede the other side of the cease-fire-line to Pakistan. Pt. Nehru has more than once reiterated the lofty principle that the people of Kashmir cannot be divided like cattle. Asking Pakistan to keep one portion of the State while we retain the other is not a right procedure and a country is not divided like this Pt. Nehru has said that he wants Gandhian principles to be honestly acted upon. Any decision, whether it be about accession either with

India or with Pakistan, should have the consent of the people. It is not proper that a party of fifty persons sits here and takes some decision or a few persons go to Delhi and decide our fate there and go back upon all undertakings given to the people for the last nine years. It would be in the fitness of things to take away the basis that gave rise to the accession of 1947 and then ask the people what they actually wanted. May be that I ask for its cancellation and you insist on its continuous but whatever is done must have the people's sanction and they should be given ample time to think over it. I find a deep contradiction in what you profess and what you promise. Moreover, the glorious traditions of the National Conference which we have inherited are being buried deep and still it is claimed that the people are with them. It amounts to duping oneself. When you released me from detention last time. I contacted all interested elements. I met your friends and they too were of the opinion that it was not the proper way of taking decision. Even they are not with you in this matter.

Voice:- What do you mean by that?

Mr. M.A. Beg: May be that some people have linked dup with you that they have been saying that they were forced to do so. If you like I can mention their names also.

Mr. Abdul Khaliq Butt: You cannot cast aspersions on us. We have taken our decision after due deliberation and without any pressure.

Mr. G.L. Dogra: Sir, he has no right to cast aspersions on others. He should be prevented from doing so.

Mr. M. A. Beg: I have not cast the slightest aspersion on anybody. If anybody feels as such. I do apologies. I have made a statement of facts and I have begged of the Hon'ble members for a little freedom. I am trying to keep absolutely to my track in language, content and everything else: but as

the matter is most important, I hope, a hearing will be given again as hitherto. It is not proper to take decisions like this as by doing so we undertake great responsibility for our future. You are taking a grave step which will have far reaching consequences. There is nothing wrong if the masses are allowed to decide their future freely.....

Sir, during his speech yesterday, Bakshi Ghulam Moh'd said that this House had set up two Committees, one Basic Principles Committee and the other Fundamental Rights Committee, on November 7, 1951 Sheikh Mohammad Abdullah and I were the Chairman of these Committees respectively. Bakshi Sahib started counting year's right from November, 1951 to August, 1953 and calculated the intervening period to be 3 years. I am at a loss to understand his arithmetic. It is no less than a revolution in it. This period hardly comes to two years.

Bakshi Ghulam Mohammad: You are perhaps aware of the fact that I was at sea in mathematics and am apt to make mistakes.

Mr. M.A. Beg: It may be true but it is surprising that you commit all mistakes to your own benefit (laughter). Let us accept that we got two years but has not Bakshi Sahib presented this Draft after three and a half years time. These points were raised here yesterday and so had to be dealt with. I have already told the House that in October, 1947. India accepted the Instrument of Accession conditionally. An irrevocable condition was prescribed and it was that the question of accession would be finally decided by a free and fair plebiscite by the people. Can we ignore these facts? Pt. Nehru has time and again reiterated his pledge of holding a plebiscite in Kashmir and I will restrict myself to quoting only one of his statements dated August 7, 1952. It said:-

“As the House knows, we have decided right at the beginning that we agreeable to a plebiscite in which all the people of Jammu and Kashmir will take part. We are resolved not to dishonour this pledge we have given to the people of India and, therefore, we shall pursue our policy accordingly. We do not want to win the people against their will. And if the people of Jammu and Kashmir want to Part Company with us they can go their way and we shall go ours”.

It further said:-

“We have declared that the fate of Kashmir is ultimately to be decided by the people. The pledge we have given, and the Maharaja has supported it, not only to the people of Kashmir but to the world. We will not and cannot back cut from it”.

India always repeated her pledge that she would not violate international commitments made by her in this connection. Even Maharaja Hari Singh accepted this provisional accession of the State. Not only that, even after 5th November, 1951, it has been declared that the Kashmir issue will be decided through a plebiscite finally. India cannot afford to stain its international prestige. I have often conferred with my colleagues on this subject and have told them that in face of these statements how we could go against this decision. I told them in clear and unequivocal terms that the stand taken by our Assembly with regard to the issue of accession is diametrically opposed to the views held by the Indian Government and hence its decision is meaningless. For instance, if you take the decision of February, 1954 Session of Jammu and Kashmir Constituent Assembly did not Pt. Nehru while commenting on it in the Indian Parliament say that such decisions are partial and one-sided. The Congress Parliamentary Party, moreover turned down the motion of no-confidence in the four Parliament

members passed by you in the Assembly. Does it not become ridiculous for you to take further decisions?

Fortunately or unfortunately Kashmir issue was taken to the United Nations. When the State Constituent Assembly took steps to frame a constitution. Sir, B.N. Rao assured the Security Council that Kashmir Consumable's decision in regard by India. His words were:-

“You may express an opinion but you can take no decision on accession”.

This statement was probably given by him either on 29th March, 1951, or on 12th March, 1952.

Bakshi Ghulam Mohammad: What is his own opinion, Sir?

Mr. Beg: I am one of your oldest comrades. It is not like continue of 1951 and 1952.(laughter) I was talking about the constitution but many more things have crept in. Mr. President, I have to wait till they laugh. Taking into account, the stand taken by Sir B.N. Rao and the various statements of the Indian Government, it is evident that the problem of Kashmir is an international one which requires to be considered deeply. More so, we stand committed to promises held out to the people of the State. If you have assembled here to frame provisional constitution with what background is it being done. It is, therefore, in no way an opportune time for holding discussions on the constitution. A friend of ours, as you have witnessed demanded provincial autonomy for Jammu yesterday in the House. Do not consider this demand on its merits or from the stand point of the Praja Parishad demands or those of the other such Organizations. It is incumbent on you to take into account also the demands putforth by others. On the eve of constitution making in India Congress allowed non-congress members also to participate in this task. Hitherto, it was the Praja Parishad and other

communal organizations in Jammu that demanded provincial autonomy for Jammu and you termed them as reactionaries and communalists. Now the same demand has been put forward by a responsible member of your own party. Justifiably or unjustifiably the Praja Parishad fights for this demand for the good of their brethren and your party men too endorse it now. People's voice cannot be suppressed by repressive laws and oppression; it expresses itself, however hard you may suppress it. People's emotion cannot be suppressed like that. No question can be solved by imprisoning people or by showering bullets or by letting loose repression on them. If this purpose could be achieved in this way the British would have never left India. In Algeria, liberation movement could not be crushed although the Algerians have suffered heavily. Such methods do not succeed anywhere. So is the case with Cyprus. Nobody can suppress the aspirations of the people. India, Algeria and Cyprus are clear examples that the will of a people cannot be crushed. At the present time when you have assembled together to frame a constitution you should examine and understand the aspirations of the people before taking any decisions. It is my conviction that people themselves can make the best decision about matters concerning them. Have not we made promises to them to this effect? Morally and politically it is our duty to act up to the teachings of Mahatma Gandhi and uphold the pledges given to the people. The way you are doing things does not lead us to any solution of the problem.

Mr. Moti Ram Baigra: What views does Mr. Beg hold in regard to Section 370? Did he put his signatures on the agreement with regard to it at that time?

Mr. M.A. Beg: I have not affixed my signatures but I accept my responsibility. Section 370 referred to by the Hon'ble member lays down

that legislation in regard to the three subjects specified in the Instrument of Accession will be made by the Parliament. If you allow me two seconds. I will give you an exact date when Mr. Ayyangar introduced this Section. While introducing the same he said in clear terms. “Kashmir’s accession to India is a provisional one and people of the State will make a final decision in this respect by their own free will. However, we hope that like the rest of the States Kashmir also will become a part of India.” Consider for a while the statement of Mr. Ayyangar, leader of the Indian Delegation to U.N.O which he made in the Security Council on January 15, 1948. Mr. Ayyangar clearly stated:-

“Whether she (Kashmir) should withdraw from her accession to India and either accedes to India or remains independent with a right to claim admission as a member of the U.N.O all this we have recognized to be a matter for unfettered decision by the people of Kashmir after normal life is restored to them.

Although the alternative of “independence” was subjected to criticism afterwards, yet Mr. Ayyangar spoke in the Security Council about Kashmir remaining independent. The question of holding a plebiscite in Kashmir was also recognized.

Bakshi Ghulam Mohammad: Are not we ourselves going to take a decision ? Nobody else will do it.

Mr. M.A. Beg: Try to grasp the meaning of plebiscite. It was actually Mr. Gopalswami Ayyangar who first posed the alternative of “independence” as far back as 1948. Why, then, should we be criticized for it? I think Mr. Baigra does not want to hear anything more from me regarding this subject.

In the light of these statements every statesman of India accepted in principle that the Kashmir issue should be decided by the people of Kashmir

through a free plebiscite. Leaving aside this principle, any attempt to choose another way would, in my opinion, be improper and unrealistic. How can Indian leaders escape the grim realities? We have always upheld the right of self-determination. During the “Quit Kashmir” agitation we had emphatically declared that Maharaja Hari Singh had no right to decide the fate of the people of Kashmir. No doubt, on the occasion of the invasion of Kashmir by tribesmen, India came to our rescue. The Indian leaders declared it time and again that the people of Kashmir could not be divided like cattle and that forcible occupation did not confer a right of possession on anybody. We do not deny the fact that this healthy attitude of theirs satisfied our desires and aspirations and this led us to co-operate with them. If this established right is denied now, how can we agree to that? Right of self-determination for the people of Kashmir has been recognised. This right cannot be exercised by the people of Paccadanga, Kachi Chawni or Ganeshpora; alone neither can it be applied only from Uri to Pahalgam, or from Kathua to Poonch. The entire population of the State comprising 45 lacs of people is entitled to exercise this right.

Even today, 25 seats of your Assembly remain unfilled this is a fact to which I will refer later on. The right to decide our destiny is indivisible, and any deviation from it will look ridiculous in the eyes of the world. It is wrong to say that the Security Council has accepted the right of the State Assembly to decide the issue of accession of the Jammu and Kashmir State. In response to Dr. Graham’s communication regarding the Council proposals both the Government of India and Pakistan were unanimous in saying that the people’s free will, and not the decisions of the State Assembly, would be the only deciding factor. According to your own

decisions 25 seats have been kept vacant and this very fact makes your decisions provisional rather than final.

Mr. Mir Qasim: Then, you should sit there.

Mr. M.A. Beg: I will sit here; I will live here and die here unless, of course, you send us to prison again. I am not one of those people.....

Mr. President: Please finish your speech within seven minutes.

Mr. M.A. Beg: It seems that I must hurry up. I am very careful about it. Among the reason given against holding of an impartial plebiscite in Kashmir are Pakistan's alignment with America and participation in the Baghdad Pact and also the risk to the minority community in India in such a contingency. As far my political conviction. I am nurtured in the National Conference. As regards Military Pacts, our attitude remains and will remain unchanged. I do not think it necessary to reiterate all these things here in the House. It is queer logic to say that in view of Pakistan's participation in SEATO and Baghdad Pact plebiscite in Kashmir is unnecessary. Once I read in a newspaper probably it was Mr. Saraf's statement that wool was being imported from Ladakh, the question of a plebiscite in the State did not arise (laughter). What reply shall I give to such arguments? I think this argument will be helpful to you in winning our people for accession with India and, therefore, you should get a plebiscite held. If Pakistan has become a member of the SEATO you may tell the people at the time of the plebiscite that you would not like to accede to a country that would become a cock-pit of war do get a plebiscite held.

Another argument put forward is that the Muslims, being in a minority in India, would be unsafe if a plebiscite in Kashmir is held. I think that when such an argument is advanced, it does a disgrace to India. India claims to be a secular country and there should, therefore, be no danger to the Muslims in

the event of a plebiscite in Kashmir, no matter whether they constitute a big or small minority. Bakshi Sahib must be knowing that on the eve of the formation of the National Conference we were told that no non- Muslim would enter this non-communal organization. He perhaps remembers that my reply to these people was: “The National Conference has been set up because of principles and not for Sardar Budh Singh alone”.

If you conceive that in a plebiscite hundred percent votes will be cast in favour of Pakistan it would be sheer folly on your part to drag the people to join hands with India. What harm lies in holding a plebiscite if you are convinced that the people will not vote for Pakistan? Kashmir dispute is still in abeyance in the Security Council and both India and Pakistan are members of the U.N.O. It is clear that the dispute is still alive. Mere writing on paper that such and such things were resolved is not enough to solve the problem nor could such procedure solve political issues. I would, therefore, finally appeal to the House that the solution of this problem be left to a free and fair plebiscite.

Sir, India and Pakistan as members of the Security Council (U.N.O) and the National Conference as well as you and I are irrevocably committed to the pledge of plebiscite, which in the words of Pt. Nehru, cannot and will not be backed out from. We should stick to it. It is my considered opinion and the opinion of my other colleagues that this House in accordance with the basic principles of the National Conference Movement, i.e. people’s movement..... in whom the sovereignty rests an irrevocable accession must be determined by the free will of the people. This House is not competent to decide that issue. There are irrevocable commitments to that end and especially after 9th August, 1953, this House ceased to be the house of people and has lost the confidence of the people. We shall go back to the

people and tell them the end the country will have in view will be determined by them alone, but not hustle the country by a body like this. I say further this House is not competent to give this country a constitution because, after 9th August, 1953, this House ceased to be the representative body of the country and lost the confidence of the people. This Government has aggrieved them by its un-democratic authority and by denying Sheikh Sahib the fundamental right, preliminary and elementary right of democracy, of coming here, so that he might say and express himself, as I am doing here, what his feelings are about it.

After these observations, Mr. President, I recall to you, Sir that Sheikh Sahib has written two letters to you and one came in between the two from you when I was in Kud Jail. I have a message from his to request you to immediately put these two documents before the House. Though that is a unique procedure of knowing a member's views on a vital subject, what when the absence is forced on him, when he has no other alternative, there is no way out except that. Therefore, I hope that at your earliest opportunity you will kindly put those letters on the Table of the House, I think you for having given me the opportunity, though it has not been possible for me to go into other matters. By and large, I have tried to give you an idea, Sir, of how we feel about this important matter.

I have penned down the substance of these views in a statement which I present to you, and this statement, besides me, is signed by Haji Allauddin, Mr. G.M. Din Hamdani.

Mr. D.P.Dhar: Sir, is it within the provision of rules to make a statement in this matter. Can this statement form a part of proceeding?

Mr.President: He is quoting something from it.....

Mr. M.A. Beg: Mr. Abdul Gani Goni, Mr. Ghulam Rasool Raina, Mr. Ghulam Nabi Badgami, Mr. Mubarik Shah, Mr. Ghulam Moh'd Beg and Hakim Habibullah.

In my speech delivered here in the House, I have said that this House had lost its representative character and that it is not competent to frame constitution, nor can it take any decision in regard to accession of the State. Therefore, I hand over statement to Mr. President and declare our boycott of this Assembly.

Note:- Mr. Beg then left the House along with his colleagues mentioned above amid shouts of many voices.

Mr. G. M. Bakshi: Sir, may I know whether this statement of Mr. M.A. Beg will be included in the proceedings of the Assembly or not.

Mr. President: It will be a part of my personal file.

Mr. Mir Qasim: Sir, it is very unfortunate that Mr. Beg treated this House to a lengthy speech as if it was a public gathering organized by the Plebiscite Front. But the way he left the House showed that he did not have the patience to listen to our reply. I am sure had Mr. Beg cared to recollect and bear in mind his earlier statements his tone and version would have been different and he would have realized that his arguments were hollow and without any substance. The first point that Mr. Beg wanted to make out was that the Constitution-making is an important task which requires the existence of a proper atmosphere. In this respect I have nothing to differ from him. But while in concluding his speech he gave it such a sentimental twist that reason seemed to drown in passion. In doing so his object appeared to indicate that the requisite atmosphere for the Constitution making was wanting. His second contention was that this House was not competent to take a decision on the question of accession. Thirdly, he argued

that this House had ceased to be a representative body as according to his, it had lost the confidence of the people after the arrest of Sheikh Mohammad Abdullah.

I think that Mr. Beg's assertion that the proper atmosphere necessary for the Constitution-making does not exist here is contrary to facts. We must look to the facts as they are. Is it not a fact the conditions obtaining at present are far better in every respect for drafting the Constitution or understanding its implications or to express freely one's opinion in respect thereof than those prevailing at the time when Mr. Beg intended to present his report on the Basic Principles Committee. Can anybody deny that the present conditions in the State are comparatively far better than what they were during the time Mr. Beg was in power ? It was in 1952 that Mr. Beg had requested the House for extension of time to enable the Basic Principles Committee to present its report. I think when Mr. Beg presented his interim report to the House pending finalizing of the draft, there was not so much freedom and the atmosphere was not as peaceful as at present.

According to Beg Sahib because of the enforcement of Rule 50 and the consequent banning of public meetings and processions in the State, the law relating to Prevention, Detention and Denial of civil liberties, it is not an opportune time for the Constitution-making. I wonder what is Mr. Beg's conception regarding civil liberties. I hope Hon'ble members of this House must be aware that all such laws were in force in the year 1952 when Mr. Beg had sought for an extension of time for presentation of his report. At that time the number of detenues was 116. I do not think there is even a single person now who has been detained for a period of 5 years under the Preventive Detention Act, reference to which has been made by Mr. Beg. It is true that a few persons are in detention but their number is negligible and

considering the number of such detenues nobody can say that civil liberties are being denied to the people. A few persons have been arrested under this Act after August, 1953 including those who had illegally crossed the cease-fire line, and those who were trying to foment communal hatred. The total number of such persons at present is 49 against the previous number of 116. I think it is equally incorrect for Mr. Beg to say that all such laws relating to detention are repealed at the time when the Constitution is in the making. I would like to tell my Hon'ble friends. Mr. Beg and Mr. Shah, that it is essential to have such laws are not necessarily repealed at the time the Constitution making is taking in hand; these are obviously, meant to check the disruptive elements and to ensure peaceful conditions which are essential for the purpose of Constitution-making.

I think Mr. Beg is one with us in holding that peaceful conditions must be ensured for the task of framing a Constitution. Is it not a fact that in every country where Parliamentary democracy exists, be it India, Pakistan, or U. S. A., such laws are enacted as a matter of necessity for the purpose of the preservation of law and order. Do you think that in India all such laws were repealed when the Constituent Assembly was set up there? No! All such laws continued to remain in force in order to enable the executive Government to maintain law and order, to carry on its day to day administration and to ensure the freedom of movement and to avoid any dislocation of means of communication. As pointed out earlier by me the number of persons detained by or under these laws does not exceed 49. Do not these figures indicate by contract that it is definitely a more opportune time to undertake the work of framing the Constitution? Again, I would like to tell Mr. Beg That while Rule 50, to which he has made repeated reference in his speech, is in force only in the city of Srinagar at present; it was in

operation throughout the State prior to August, 1953. As Rule 50 is in Force only in the city of Srinagar I must say that Mr. Beg is not correct⁵ in asserting that meetings and processions are banned throughout the State. Who can deny the potent fact that public meetings are held throughout the length and breadth of the State? The news that appear in the foreign press and are regularly broadcast by Radio Pakistan in respect of the meetings held not only by the National Conference but also by the Praja Parishad and the Plebiscite Front give a lie to the assertions of Mr. Beg. It is neither our fault nor that of the Law if people do not participate in the meetings sponsored by organizations other than the National Conference. We are not to be blamed if just a handful of people, not exceeding fifty, took part in the demonstrations recently staged by the Praja Parishad.

We would have been in fault if we had imposed any restrictions on holding public meetings or staging demonstrations. The very fact that Radio Pakistan daily gives the news that the Plebiscite Front has taken such and such decisions and that it has held its meetings in such and such villages, proves it beyond any shadow of doubt that public meetings are not banned in the State. It was recently that Mr. Beg after his release from the Kud Sub Jail, called a meeting of some of his workers and neighbours at his residence, wherein he tried to impress upon them that Islam was in danger. Likewise Mr. Ghulam Mohd'd Beg and Hakim Habibullah too convened meetings at Kokernag and Sopore respectively. It was only yesterday that Mr. Beg succeeded in collecting a few persons and exchanged views with them in the office of the Plebiscite Front, which is located just outside the Government Secretariat. It clearly proves that even in the city of Srinagar Rule 50 is not applicable to private meetings. His assertion that there is a negation of Civil

liberties in the State and that public meetings cannot be held there does not thus hold any water. So far as my information goes there is not a single instance where any application of any political party seeking permission of the District Magistrate to hold a public meeting was rejected. Permission of the District Magistrate can always be secured under Rule 50 to hold peaceful meetings and demonstrations even within the limits of the city. The allegation of Mr. Beg that restrictions have been placed even on private meetings is absolutely without any foundation. In spite of the fact that Rule 50 does not extend beyond the Municipal areas of Srinagar. Mr. Beg has vainly tried to paint a grim picture of the imaginary repression let loose throughout the State under the said Rule.

I do not see how can the blame be shifted on to the Government if people have refused to listen to the speeches of Mr. Ghulam Moh'd Beg as colleague of Mr. Beg that he wanted to make at Kokernag. So far as Rule 50 is concerned I have already stated that it applies only within a limited area of three miles of the city of Srinagar. It is, therefore, wrong to say that this rule is in force throughout the State. This Rule is neither applicable to the Districts of Baramulla, Doda and Anantnag nor to Ladakh, Jammu, Kathua and Udhampur Districts. Everywhere outside the city of Srinagar, the workers of the plebiscite Front hold meetings and deliver speeches. If they choose to hold their meeting within the city of Srinagar, they can even do so after seeking the permission of the District Magistrate. The allegation of Mr. Beg has not a semblance of truth in them. If no meetings private or public are held, how is it that Pakistan Radio regularly broadcasts the proceedings of the meetings and the Plebiscite Front itself gives statements about the resolutions adopted and the decisions taken by it.

As stated earlier by me when the task of Constitution making was taken up in India. Security laws continued on the Statute Book. After normalcy is completely restored in the State I think there may be no need to enforce the provisions of such a law. After 1953, the situation improved and those laws were not used so frequently. Our Constituent Assembly proceeded ahead with its work. Accordingly to Mr. Beg there should be a more suitable atmosphere for this task so that people could get a better opportunity to consider the matter. Does he mean to say that they should be starved and religious fanaticism should be roused in them just as was done prior to 1953? Is that the way to give people a better opportunity to consider the problems? I wonder when a more suitable occasion could be available to the people if not now when they have enough to eat, when they get free education and have been relieved of their debts and when other facilities have been provided to them to carry on their avocations.

For the sake of comparison let us take the question of freedom of press. The number of newspapers published has doubled since Mr. Beg was removed from power. It is still fresh in our memory that according to the draconic laws of the regime of which he was a Minister if anybody, prior to 1953, served meals to more than 24 people at a party or otherwise he was not only criminally liable for the same but was also very often flogged. I would like to ask him if that was the proper atmosphere. I am sure, if he were to take a dispassionate view of things, he will see for himself that the conditions today are far better. Everybody now gets enough to eat; work is also available in the State where a net-work of roads has been spread. Facilities of irrigation have also been arranged for the benefit of agriculturists.

Mr. Beg should not forget that prior to 1953 there was no opposition in the House, not even a nominal one. It is only after 1953 that the opposition has been given a patient hearing. Participation of Mr. Beg, Mr. Shah and their comrades in the deliberations of the Assembly provides a clear proof of my assertion. Opposition is tolerated for the healthy criticism it offers but there is an opposition which is conspiring to disrupt the integrity of the State.

I would like to ask Mr. Beg and his friends if the laws placed on the Statute Book on his initiation did specify any time limited for detention. People could be detained not only up to five years but for a longer period also. Henceforth, we propose to bring the law relating to preventive detention in conformity with the similar law prevalent in India. Moreover, it is open now to an aggrieved person to seek justice from the High Court as well as the Supreme Court. It will be interesting to note that Mr. Ghulam Mohammad Beg in the capacity of Tehsil President would exercise the powers of a Magistrate and issue orders for the arrest of any person he liked and the orders were promptly carried out. But no Magistrate other than a district Magistrate is competent to exercise these powers now. I leave it to the House to Judge for themselves whether the conditions were more suitable for our purpose than or they are so now.

Mr. Beg further desired that besides a proper atmosphere it was necessary that the right to a free and fair plebiscite should be recognized. He also urged that the future status of the State should be decided through such a plebiscite. But it is known to everybody that the alternative suggestion of holding a plebiscite was ruled out when a decision was taken to convene this Assembly in order to determine the future of the State. Anyhow, I will discuss this point at a later stage in my speech.

While speaking on the Draft Constitution Mr. Beg's first criticism was directed against its Preamble which does not contain any substantive provision. His quibbling with certain words occurring in the Preamble was aimed at misinterpreting the whole thing with a view to prove that it was the Maharaja who had acceded to India and that we were here just to confirm the accession already concluded by him.

In the course of his speech he has vainly tried to prove that the Accession of the State entered into by the Maharaja is unacceptable. It appears that his main object is to have it on records that it was the Hindu Maharaja who had acceded to India and the Muslims of the State had no say in the matter. This is a mere stunt as he had accepted the post of a District Emergency Officer, offered to him by the same autocratic Maharaja. Why did not he decline that offer then? At that time he could have contended that as they had assumed the reins of the State administration after the collapse of the previous regime and as a result of the successful struggle of the people in this direction, there was no point in his accepting the office of the Administrator offered by the Maharaja. I, for one, even asked Mr Beg to tell Sheikh Moh'd Abdullah that there is no question of accepting the Maharaja's offer of the post of the Head of the Administration as he had attained that position as a result of the long sustained struggle of the people. At that time I was told that Sheikh Sahib was unwell. The matter was never broached further. At that time the (Sheikh Sahib) accepted the offer of H. H. the Maharaja Bahadur Hari Singh Jee who was Indar Mahinder Siper-I-Saltanat-io-Englishia without any hesitation. Mr. Beg too served for over 2 years as an officer of Maharaja Bahadur Hari Singh, who used to promulgate ordinances under section 5 of the Constitution Act, Later, he functioned as an Administrative Officer at Anantnag under the same Maharaja. How

strange it is that now Mr. Beg refuses to accept the accession made by the same Maharaja.

I have great respect for Sheikh Sahib. Our respects were, however, due to the Programme and Ideals which he had set before the country from 1931 to 1952. But his action and utterances after that date lowered him in the estimation of the people. Mr. Beg quoting Mr. Nehru said: "He was the accredited leader of the people of Kashmir." Thereby Mr. Beg tried to prove that Sheikh Sahib was the only representative of the people and that no one else, not even this House, could represent the people. I concede that so long as Sheikh Sahib gave a right lead to the people and so long as he attempted to run the State on a democratic basis we accepted him as our leader. Undoubtedly, he was giving us the right lead when he saved us from the ravages of the Tribal raiders.

Similarly, he was truly representing the wishes of the people when he supported the State's accession to India. He was then enjoying absolute confidence of the people. But when he deviated from the path set before the country by the National Conference Party after due deliberation and careful thought he lost his position as a leader. People did not respect Sheikh Sahib for his person but had accepted him as their leader for this ideology. As soon as he departed from the accepted path he lost the confidence of the people. Having thus lost the confidence, he now questions the validity of the Maharaja's accession. About the same accession Sheikh Sahib had once said, when Mr. Beg too was in the Cabinet:

"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 Government was indulging in repression in certain areas of the State particularly in Poonch, the State was suddenly invaded...”

Maharaja was still indecisive about accession when the Tribal hordes attacked the State. Sheikh Sahib further stated:

“The National Conference mobilized all sections of the population in an effort to prevent conditions of chaos and dislocation from spreading to the entire State. This factor was mainly responsible morale 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 overwhelming number of the well armed raiders, the unarmed people of Kashmir could not hold out for long. Consequently, it became urgently necessary for us to seek the assistance of a friendly Neighbour which alone would enable us to throw back the Invaders. In that critical moment, we could turn only to India Where the Government and 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 defence against aggression. The Govt. of India could send army only if the Ruler of 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. 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.”

It is really sad that Mr. Beg should forget completely all these incidents and base his arguments on the plea that he could not accept the accession because it has been decided upon by the Maharaja. How strange it is that as long as he was the Administrative Officer he supported the Maharaja and advised him to sign the Instrument of Accession. But now he is trying to belie the past which I may say he cannot.

Under the circumstances he thought it most expedient to beat a hasty retreat from the House.

How strange it is that today the Accession is referred to as the Maharaja's accession though Sheikh Sahib says that the Maharaja acceded to India with the fullest support of the people. To use his words, Sheikh Sahib said:-

“First the National Conference decided it, resolved it and then asked the Maharaja to sign the Instrument of Accession.”

Mr. Beg has further urged that as this question has become an International issue its basis has changed. A reference was also made to the Security Council. I would like to remind Mr. Beg what Sheikh Sahib had to say in this connection Sheikh Sahib stated:

“Finally, we come to the issue which has made Kashmir an object of world interest and has brought here 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 in the affirmative. Everything hinges round the genuineness of the will to Find a solution. If we face the issue straight, a solution is simple.”

This question was an International issue even at that time. In what manner it has undergone a change is not clear to me.

Sheikh Sahib goes on to say:

“Was Pakistan’s action in invading Kashmir in 1947 morally or legally correct Judge by any form of International behavior?

Sir Owen Dixon’s verdict on this issue is perfectly plain. In Unambiguous terms he declared Pakistan an aggressor.” This Statement should have been studied by Mr. Beg, Sheikh Sahib stated Further” Was the Mahaaja’s accession to India legally valid or not? The legality of the accession has not been seriously questioned by any responsible or independent person or authority.”

Now when Sheikh Mohammad Abdullah himself maintains that the legality of the accession has not been questioned by any responsible person. I fail to understand as to why Mr. Beg tries to behave irresponsibly now.

The next argument advanced by Mr. Beg is that at the time of signing of the instrument of Accession the condition of reference to people was also provided for therein. It is not wholly true. It amounts to finding faults where there are none. If you study this Instrument of Accession you will find that the draft signed by the Maharaja of Kashmir on 26th October, 1947, was accepted by the then Governor General of India, Lord Mountbatten, on 27th of the same month with these words: “ I do hereby accept this instrument. Besides, it is written in the 9th clause of this Instrument of Accession.

“I hereby declare that I execute the Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be constructed as including a reference to my heirs and successors.”

Now this Constituent Assembly is the successor of the Maharaja. It is quite a different thing that the Government of India, in keeping with its

democratic traditions, in separate letter agreed to allow the people of Kashmir to express their views on the issue at the proper time. But it does not follow from it that one can challenge this Instrument of Accession.

This letter was probably written by Pt. Nehru in order to allay the apprehensions, if any, of the people of Kashmir to the effect that they had been obliged to take a decision on account of the crisis precipitated by Pakistani attack and that if they had been allowed to decide the issue in a clam atmosphere they might have decided it otherwise. As is obvious it was done because the Government of India had no aggressive designs against us. Pandit Nehru wrote this letter with a view to meeting the wishes of the people of Kashmir to that they may not apprehend that they were forced to take a decision in a hurry. Otherwise, legally, an offer was accepted without any condition and thus the agreement was complete. After an agreement is concluded by the parties, no condition imposed subsequently can affect the validity of the agreement. It is a clear legal proposition. Mr. Beg also quoted Mr. Ayyangar and referred to his statement to the effect that the will of the people of Kashmir will ultimately decide this question. Mr. Ayyangar had clearly indicated.” That people will be given an opportunity to decide whether to continue or not to continue with the Indian Union.”

Sheikh Abdullah also accepted this position. It does not, of course, mean that we will accede to Pakistan or remain independent. On the contrary, we had in mind this House can take a final decision with regard to it and that the Assembly was fully competent to take a decision. If it did not like to accede to India, it could take a decision accordingly. This Assembly, which consists of the chosen representatives of the people decided to accede to India and this accession is final and irrevocable.

Mr. President: I do not think you are continuing your speech today. You will resume your speech tomorrow.

Mr. G. R. Renzu: I would request that the Hon'ble Member may be allowed to continue his speech today.

Mr. Abdul Khaliq Butt: Sir, it would be better if the Hon'ble Member continued his speech tomorrow.

Mr. President: This discussion will be resumed tomorrow and the Hon'ble Member will continue his speech with this, the today's session is adjourned and we will again meet here tomorrow at Eleven O'clock.

Note:- The House then adjourned till 25th October, 1956, at 11 A. M.

Thursday, the 25th October, 1956/8th Katik, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, at Eleven O'clock.

Mr. President (Hob'ble G. M Sadiq) in the Chair.

Mir Qasim: Sir, Yesterday I was submitting that the observation of those friends had no substance who had tried to prove that from legal and Constitutional point of view accession of our State with India was not complete. I had quoted from some of their own speeches which they had made during 1951 and 1952, they had affirmed that the accession

Note:- The star mark indicates that the speech was delivered in Urdu and the English translation thereof has been incorporated in the proceedings was not only complete legally and Constitutionally but it was complete in every respect and was in accordance with the decisions of the National Conference.

Much stress was laid on the words "in pursuance of.....", occurring in the Preamble of the Draft and efforts were made to prove that expression implied the confirmation of the same accession which was made by the Maharaja and which could not be called complete unless certain conditions were fulfilled. As mentioned earlier by me Sheikh Sahib in his speech of 11th August, 1952 stated, "that the accession of Jammu and Kashmir with India was complete in fact and law."

I am not quoting from the statements of Sheikh Sahib or Beg Sahib with this object in view that these statements lend support or otherwise strengthen the legal aspect of the accession or that in the absence of these statements some of its aspect remain unexplained but I am quoting from

them in order to prove that as leaders of the National Conference then, they were guiding the country in the right direction and the statements they made then were in accordance with the decisions of the National Conference.

As I have already stated under the Instrument of Accession no question of plebiscite arises from legal or Constitutional point of view. Only some of the leaders of India have referred to it in their statements or letters. It is said that the people of Kashmir might have taken the decision in haste. Again there is a feeling in certain quarters that had the people of Kashmir decided the issue after due thought they would have settled it differently. That is why these leaders have reiterated that when normal conditions are restored in the State, people will have the right to express themselves on this issue.

Now I would like to throw some light on what happened afterwards. To begin with, the sovereignty which vested in the Maharaja was transferred to this House. In fact, the sovereignty was initially transferred to the people after 1947. Consequent upon such transference it was decided that a Constituent Assembly consisting of people's representatives be convened and thus the sovereignty passed on to this house. As I stated yesterday Sheikh Sahib had full support of the people then and in accordance with the desires and aspirations of the people he himself favoured his accession. It was also in pursuance of the wishes of the people that the Maharaja signed the Instrument of Accession. Virtual transference of this sovereignty had not taken place on the date when Instrument of Accession was signed by the Maharaja. Upon the transference of sovereignty which took place on a date it was thought proper to give the people an opportunity to express their opinion as to whether they wanted to ratify this accession or not. As to what from the expression of the opinion of the people would take after

sovereignty had developed upon them was being concretely discussed when the Kashmir issue was made an international issue. Immediately afterwards the idea of referring this matter to the people was being confused with “plebiscite.”

The assurance of referring this issue to the people of Kashmir was not given by Pt. Nehru to either the U. S. A or Pakistan but to the people of Kashmir themselves. He had not given this assurance under any pressure or to please anybody. He wanted the people of Kashmir to whom the sovereignty was transferred to give their verdict after a thoughtful consideration. It did not concern anybody else but the people of Kashmir only. Now the question is as to whether the people of Kashmir keeping in view this assurance, took any step to express themselves. If so, let us discuss it. It is not correct to say that the decision of holding a plebiscite was taken by the National Conference or other political party of the State. No political party of the State had taken any decision against the accession to India and demanded a plebiscite in the State. It was the Government of India which on its own accord afforded an opportunity to the people for the expression of their will. You know that when India put this problem before the U. N. O she did not ask for a plebiscite but instead launched a complaint regarding aggression committed against the people of this State. Being a peace loving country India only wanted the U. N. O to declare the party responsible for the invasion as an aggressor. So, when the Constituent Assembly was convened it had to express its opinion on behalf of the people in respect of the issue of accession. Consequently when a Constituent Assembly was set up this was clearly implied that the Assembly as a successor body with sovereignty rights had to express opinion on behalf of the people with regard to accession. It is, therefore, futile to say that to solve the issue of accession

the holding of a plebiscite was necessary and that this House had no right to give a verdict on that issue.

After the raids the people of the State waited for a longtime with the hope that the United Nations Organization will declare Pakistan as an aggressor and liberate the occupied area and afford an opportunity to the people of that part to express their views on the issue of accession along with the people of this part but this hope was not fulfilled. The National Conference, a representative body of the people, waited till 1950. The developmental schemes of the State could not be implemented during this period but when the National Conference felt that the Kashmir issue is hanging without any fruitful result in the Security Council and other International Organizations, it passed a resolution on 27th October, 1950. In section 5 of the resolution on page 2 it is stated that unnecessary difficulties are being created in respect of the simple matter of declaring Pakistan, which has invaded Kashmir, as an aggressor.

The resolution reads:-

“The unity of purpose and action forged between the people of Kashmir and India in defence of common ideals and the great liberation role played by the Indian Army resulted in halting aggression and clearing greater parts of our country from the presence of the invader. But yet in order to secure International assistance to undo aggression. India, as a peace loving country and as a loyal member of the United Nations, placed the Kashmir question before the Security Council.”

“The National Conference had repeatedly warned the Security Council and its Commission that any attempt at bypassing the

Fundamental factor of aggression would end in failure.”

These steps were taken because the National Conference found affinity of purpose and principles with India. The National Conference saw how Pakistan had restored to an economic blockade of Kashmir in consequence of which the prices of sugar, salt, cloth and other necessities of life rose day by day. Then the State was invaded and the issue became more and more complicated. Keeping all these things in view a resolution was passed by the National Conference. It has been stated at the end of section 5 of the resolution that:

“The indecision and unrealistic procedure adopted so far has condemned the people of the State to a life of agonizing uncertainty. The all Jammu and Kashmir National Conference is gravely concerned and cannot any longer afford to ignore the perpetuation of these conditions. The General Council, therefore, feels that time has come when the initiative must be regained by the people to put an End to this indeterminate state of drift and indecision.”

“The General Council recommends to the Supreme National Executive of the people to take immediate steps for convening for Constituent Assembly based upon adult suffrage and embracing All sections of the people and all the constituencies of the State for The purpose of determining the “future shape and affiliation of the State of Jammu and Kashmir.”

To my mind the words, “future shape and affiliation of the State of Jammu and Kashmir” are very significant because they contain the National Conference decision regarding the future affiliation of the State and for convening a Constituent Assembly. When such directions were given to the

National Executive it was imperative to abide by these and on 31st October, 1951, the Jammu and Kashmir Constituent Assembly was constituted. The representatives who were returned by the people were elected on the basis of audit suffrage. Before holding the selections the National Conference had made it clear to the people that if the National Conference party was returned, it would firstly frame the constituent of the State and secondly, decide the issue of accession. It was quite clear that this political party was in favour of accession to India. People knew that the party which was being returned would ratify the accession to India. Sheikh Sahib also said in this context:

“Our movement naturally gravitates towards India”.

It was, therefore, natural that this House should establish its relationship permanently with India. It also becomes clear that the people agreed on these two principles, namely of the future Constitution and the affiliation of the State. The people were in general agreement on these issues, that is why no opposite group or party succeeded in the election. It is now being asserted that the National Conference had no programme and votes were cast by the people due to their love for the person of Sheikh Sahib. I have never heard that in any democracy in the world the people are asked to cast their votes for any single person. Even if some individual is loved or respected by the people, it is for the principles which he holds dear and the programme which he advocates. Even the National Conference gave its vote to Sheikh Sahib because of their declared policy which I have referred to already. Now when they are going back upon that policy set out in the election manifesto the party which owned them, they and not we should go to the electorate and seek its verdict. We are not repudiating the policy which we placed before the people at that time of the elections. There is continuity in our policy.

After denying the basic principles of our policy, they ought to have resigned from the membership of the Assembly and sought a vote of confidence from the people, but they did not do it because they knew the consequences. After August, 1953, two of their colleagues one from Anantang and another from Baramulla, resigned from the membership of Assembly. They wanted to have a trial but both these seats were won by the National Conference candidate in the bye-elections. It clearly proves that the people support our policy and are not in favour of repudiating it.

Recently municipal elections were held in Srinagar and Jammu and at both the places majority of the National Conference candidates were returned. Similar was the case in the elections of Town area and other institutions because people were behind the National Conference. If our friends feel that people are with them, they can resign from the membership of the Assembly and contest their seats in an open election. They will themselves come to know whether people have confidence in them or in us.

Their another objection is that we have lost our representative character but I think it is far from the reality. Everybody is aware of the speeches that they made then in support of the original manifesto and of the resolution passed in 1950 in which they have clearly admitted that this House is sovereign and competent to decide the issue of accession finally. Today, they are harping on a different tune.

They clearly stated then that this House would finally decide whether we had to continue our relationship with India or not. Under these conditions, there could be no better method for the reference of the issue to the people which they term as plebiscite. For this purpose, the Constituent Assembly was convened in 1951, and if in 1953 some of our members took a different path, how could that change the position? How could it affect the

sovereignty achieved by the people in a democratic way ? How could it affect the confidence reposed by the people in the members of this House? We are, today exercising our sovereignty. Sheikh Mohammad Abdullah, in this policy speech delivered on 5th October, 1951, reiterated that this House would decide the issue of accession and frame the Constitution for the State.

Mr. Beg while delivering his speech made some sarcastic remarks. He said that if Saraf Sahib has implemented a wool development scheme, that if Bakhshi Sahib says that transport facilities have been improved, roads have been constructed, and means of irrigation have been extended it bears no relation to the question of plebiscite. I think the logic of Mr. Beg is queer. If the country is developing economically it is no matter for a joke or sarcasm. Political freedom and accession are matters directly linked up with the economic progress of the State as otherwise mere political freedom has no meaning. We want to see our country on the path of economic progress and the experience has shown that by sticking to the path, we have adopted, we can go ahead with the economic development of the country.

Mr. Beg has also referred to the International situation and has said that he cannot make out as to how Pakistan's joining military pacts could affect the question of plebiscite. But I fail to understand how Mr. Beg and his colleagues have more understanding of the International situation than some of the great men of India. Recently, a great statesman like Pt. Jawahar Lal Nehru has stated that the International situation has so changed that the question of holding a plebiscite which is sponsored by Pakistan and some other interested powers is beside the point. It is rather impossible now because Pakistan has joined various war pacts. It is quite clear that if war breaks out the dream of "New Kashmir" cannot be realized. Therefore, Kashmir, not worrying much about a simple word "Plebiscite" has expressed

its will on the question of accession and is also going ahead in the field of economic development. Pakistan wants to subjugate Kashmir by military force or otherwise. If such an adverse fate befalls us we will be prey to imperialist powers and their war designs will materialize. The people of this State will be used to further the purposes of their aggressive wars. When we impress upon the people the devastating effects of SEATO and BAGDHAD pacts. Mr. Beg remarks that it has no bearing upon the question of holding of the plebiscite. The International of these issues, obvious, for which we are against joining any war blocks there can be no use for a plebiscite. While Pakistan has already joined such blocks. There is in these circumstances, no other solution except to foster the ties of relationship with a peace-loving power like India. So we have unanimously decided to accede to India and this is the decision endorsed by the representatives of the people. What other better way is there to know the verdict of the people ? How is it possible as is being suggested, for the representatives chosen by the people to seek the opinion of the common man in respect of every individual matter? India framed her Constitution and so did Pakistan. Both the Constitutions were made by the representatives of the people and both are being worked. Where the representatives of the people exercise a right they do it on behalf of the people. These representatives of people form Governments and enact laws. It is being done both in India and Pakistan but regarding Kashmir it is said that the representatives of people here, should seek the opinion of every individual on each issue. The Maharaja transferred sovereignty to the people and acceded to India in accordance with the wishes of the people. It is thus clear that the issue has been decided according to the will of the people. What more proof can be produced when it is clear that the sovereignty was transferred to the people and Regency was established to handle it properly?

After the establishment of Regency people elected their representative. What other proof is needed to establish that when sovereignty devolved upon the people, being exercised for sometime through Regency, this House constituted democratically as a representatives body of the people and as successor to the sovereignty vested in the Maharaja had the sovereign right to approve or disapprove the action of its predecessor. It is evidently strange that the question should now be posed as to what decision should this body take and whether it was competent for this body to do so. It is this House which decided the future of the Maharaja. It has also decided the question of landed estates one of the important and valuable rights in private property and has enacted laws for the distribution of lands amongst peasants and the abolition of the system of Jagirdari, We are now being told that we have no right to express our opinion. They forget that it is the people who have established our Assembly. This Assembly decided against monarchy and also decided to accede to India in accordance with the wishes of the people and the leader of the time has also declared that accession with India would be beneficial to the interests of the State. I would now like to quote a few lines from the speech of Sheikh Sahib delivered on 12th November, 1952. He had stated:-

“I am conscious of the fact that our movement is closely connected with the National Movement of India, because the social and economic ideas of both are identical. It has always stimulated our movement. We have made headway in achieving our ideas by our relations with India during the last five years. The traditions of common ideas and struggle unite us with the people of India and I hope that these traditions will strengthen our

relations on a permanent basis and bring us closer to each other in future.”

Besides, I would like to impress upon the colleagues of Sheikh Sahib that Sheikh Sahib in his statement of 1952 made the following observations regarding Pakistan:-

“Was it consistent with the democratic spirit to force a Peace loving and armless nation to accede under duress by means of ruthless oppression ? When Pakistan saw, that because of the help of the India forces and by the courageous and brave defence of Kashmiri people it could not succeed by means of ruthless oppression, it started on entirely new technique of springing up democratic phraseology.”

“I would like to submit most humbly that Kashmiri people understand the meaning of democracy and freedom because they have achieved it not by a sheer chance but by sacrifice”.

Subsequently Sheikh Sahib in his speech delivered on 25th March, 1952, state:-

“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.”

Then he says:

“But I have to say it, regretfully though those in all the endeavors 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 accede to India. No one has been able to question this accession on legal or constitutional grounds.”

Further he says:-

“It is clear, therefore, that so long as the people do not annual this accession, India cannot be expected to forgo her rights and responsibilities.”

It is thus clear that we can annual and repudiate the accession. Mr. Gopala Swami Ayyangar had also stated that the right to continue or not to continue with India lay with

The people of Kashmir and this House have taken a decision that we shall continue our accession but not ratify it. It is on the face of it absurd. We have confirmed this accession and we are determined to continue it.

Similarly, Mr. Mubarik Shah in his speech delivered on 14th August, 1952, stated:-

“Now the question arises why did we accede to India? If the rulers of Pakistan had not launched their treacherous attack on us tried to deprive us of our freedom, even then I may assure you Sir, the people of this State would have accede to India.”

Further he said:-

“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 it stands confirmed long since.” _____

Further Mr.Mubarik Shah Said:- _____

“The security Council or Dr. Graham may or may not decide it for ever on the basis which have been stated clearly in the statement. I have no indecisions.”

Mr. Mubarik Shah again stated on 14th August, 1952, that if Pakistan had not launched on attack on the State, the people of this State would have acceded to India, and they had confirmed it even in the Security Council. He has further stated that this step had been taken with the consent of the people. It is, therefore, clear that this House had full support and authority in respect of deciding the issue of accession.

Mr. Beg has also referred to my other things. He says that holding of plebiscite is necessary because Sheikh Sahib is not present in this House now and, according to him, this House has, therefore, lost the support of the people. But I have already made it clear that this is the House is the only body competent to decide the issue of accession. In my view the logic of the Hon'ble members for holding a plebiscite does not cut any ice. We have only given a constitutional shape to the decision already taken by the National Conference. These Hon'ble members have quoted Mr. B. N. Rao and Pt. Nehru to the effect that the decisions of the Jammu and Kashmir Constituent Assembly will not affect the decisions of the United Nations, but Mr. Beg has forgotten what Pt. Nehru said when Pakistan joined SEATO and BAGDAD PACTS. He has conveniently forgotten what Pt. Nehru had said when the National Conference was considering the question of convening the Constituent Assembly. As early as 28th October, 1950, Pt. Nehru had said:-

“I have cursorily gone through the political resolution of the General Council. My feeling is that it is a correct exposition

of the ideas of the masses of Kashmir. What is, however, needed is that you should, with grim determination, stick to these ideals. The sooner a Constituent Assembly is set up in Kashmir the better It is.”

“It is not unlikely that some countries object to the decision of holding elections for the proposed Constituent Assembly on the plea that the Kashmir question is undecided yet. But that would be a wrong approach. We have been seeing how the Kashmir question is being delayed and the people of Kashmir cannot stop all their activity and just adopt an unhelpful attitude of wait and see. In any case, the elections will further strengthen the National Conference and enable us to know the people’s wishes.”

“The Kashmir war is an ideological war. Kashmir is giving a showdown to the two-nation theory, and her people do not look at things with coloured glasses.”

“Kashmir is a part of our heart, naturally, these sentiments will affect the attitude of the people of Kashmir towards India, although ultimately the people of Kashmir through An elected Constituent Assembly will ratify the formal Accession of the State to India.”

If our Hon’ble friends can quote any cuttings from any paper to show that Mr. Nehru holds any view contrary to the one expressed in this Statement, then there will be no need for us to refer to the Statements of either Mr. Rao or any other person. They have been leveled some criticism against the Secular Democracy of India and have said that if Kashmir joined Pakistan it will be then that the Secular Democracy of India would be really put to test. When, these friends of ours were in power. Mr. Beg had advocated that as the progressive forces were quite strong in India,

Kashmir's decision to accede to India was a more reasonable decision. It was also his view that if the people of Kashmir accede to Pakistan, the Muslim of India would be endangered. I cannot make out as to how his present attitude is in conformity with his previous stand. He should, however, have realized that with Kashmir's accession to India, the secularism of India will get strengthen. In India both Hindus and Muslims live together like brothers. When we expect from Pt. Nehru, Maulana Azad, the Congress and other progressive forces to make this secularism more and stronger, it also becomes our responsibility that we too strengthen the hands of the upholders of secularism and democratic forces. There may be few fanatics in India, but we should not follow their way. What Mr. Beg suggests is that we should first support communalism and then judge the secular character of India.

I have taken much time of the House in answering the objections raised by Mr. Beg. However, I am happy to note that many people in India have commended our Draft Constitution. Mr. Beg has said that the people in India could not accept this Draft Constitution, but I would like to assure him that it will be supported by the people and the Parliament of India in the same way as our other decision have been supported in the past.

I find that some interested people have tried to misrepresent certain facts about our Draft Constitution. A newspaper has vainly tried to prove that Kashmir has framed an independent Constitution and that communists and their fellow-travelers have a hand in it. The paper has referred to me and to Mr. D. P. Dhar and has said "We shall know our proper places soon." I am not at all disturbed by the confused thinking of the columnist but I think, the misunderstanding must be cleared.

When once the constitution is enforced the Government of the state and all the central institutions function in accordance with its provisions, it will become amply clear that the Government of India, its people and Parliament do support our Constitution. If the columnist names Pt. Nehru or Pt. Pant also as “fellow travelers” for their support to our Draft Constitution we cannot help it. We can only pray that our critics correctly understand and appreciate the position. But the observations of the paper that the “fellow travelers will suffer are quite mischievous. I was closely associated with Sheikh Sahib as a member of his delegation, when as Prime Minister he used to go to Delhi to discuss matters about the future Constitution of the State. There, I could feel that the special position which Kashmir enjoys in the Indian Constitution was not grudged by anybody and no one wanted to minimize it. It is in line with that Constitution that we convened this Constituent Assembly, decided the issue of accession and framed a Draft Constitution which is before you now. The Indian Press has properly understood the spirit of this Constitution. While throwing light on it, the Indian Press has stated that it is wrong to call it a separate Constitution; it is the part of the Indian Constitution. It is wrong to think in terms of any separatism being voiced by us merely on the pretext that the Constitution has been framed and published separately. The mere linking up of some leaves and separating certain leaves does not determine the relative unity or separatism of the country. In the Indian Constitution, Judiciary, Legislature and Audit and Accounts have been given a prominent position. Similar provisions exist in our Draft Constitution too. While acceding to India we have not claimed our independence through this House was authorized to do so. We could, as Mr. Beg advocated, establish a separate State with the support of some foreign powers without acceding to India or Pakistan. But we did not do so. We opted for the Republic of India. Under the special position guaranteed to us under the Constitution of India, we did not agree to have Raj Purnukh or Governor here. We favoured to elect a head of our State on democratic lines. It is also a fact that we are more autonomous than other provinces of India, but autonomy does not mean independence as communalists would like to call it. There is a lot of difference between the two. It becomes necessary to reiterate that in the Constitutions Assembly would be constituted in the State of Jammu and Kashmir. While the Constitution of India was being framed. Pt. Nehru Maulana Azad, Sardar Patel Mr. Pant and other representatives of the people were present there who admitted that the Jammu Constituent Assembly had right not only to decide the question of accession but to frame the Constitution for the State also. I would impress upon the columnist “Insaf” that he should see things

carefully and try to understand the issues in their right perspective. Our job was not only to take a decision in respect of accession but we had many other things to do: We had to frame a Constitution for the State. We had the authority of transferring land to the tillers after expropriating chakdars and landlords without paying them any compensation. We, being the majority party of the State took these decisions. We do not attach any importance to the statements of those who say that we are trying to establish an independent Kashmir. Recently, I read a book in which it was written that Mr. Beg had divided the State into five provinces and Poonch, which is not at all occupied by Pakistan, was declared to be a separate province in an effort to amalgamate it with the area under occupation of Pakistan. We never subscribed to this proposition. While, thus opposing separatism we do not also favour complete merger with India, while some people interpret our autonomy as separatist tendencies.

We have recommended the establishment of a Public Service Commission and an Election Commission. We have agreed to keep our Audit and Accounts Departments under the control of the Auditor General of India so that he may see that the amounts sanctioned by our Legislature are spent properly. We have provided that the office of the Sadar-i-Riyasat would be elective because it would be a more democratic way to elect the head of the State. Had Shri Yuvraj Karan Singh, our Sadar-i-Riyasat, not been elected in a democratic way. I or this House would not have so much respect for him as we have today. However, this Draft Constitution is bound to be adopted and the people will adopt it. But those reactionaries, who want to sabotage our aims, will not succeed in their designs. They are at liberty to call us by any name they like, but we will follow our own principles. You will never see in me or Bakhshi Sahib or any of our colleagues any desire of forming an independent Kashmir. We will never leave our principles aside and raise the slogan of plebiscite. We will always be unanimous on the issue of accession with India and the maintenance of internal autonomy of the State. We will never think of establishing an independent State.

In accordance with the Parliamentary practice and procedure we have placed this Draft Constitution before this House. When this will be adopted the columnist whose name I do not recollect at present, will come to know whether this Constitution has been framed by communists or some other body. If he still persists in holding his earlier view, then our Chief leaders as also Pandit Ji and members of the Indian Parliament who are welcoming our Draft Constitution are according to that columnist also communists.

Sir, with these submissions I conclude my speech.

Note:- (Mr. Kushuk Bakula rose and delivered his speech in Bodhi: after he finished his speech, the Secretary Constituent Assembly read out to the House the English version of his speech).

Shri Kushuk Bakula: Sir it is with feeling of genuine pleasure that I rise to congratulate the leader of the House and the other Hon'ble members on the successful accomplishment of the task of historic importance namely, the passing of a secular democratic Constitution for our State a Constitution which guarantees to every citizen and every section of the population of the State irrespective of caste, creed and sex which in short is the rock foundation on which the magnificent superstructure of a socialistic welfare State can be surely raised to the skies. Every single feature of this Constitution is a character for our liberties. Our progress and prosperity and is therefore, worthy of our whole hearted support, but its happiest and most significant feature. Its very soul, I should say is its declaration relating to the State's accession to India, on which it fixes the seal of absolute finally. Which it places beyond the reach of wagging tongues and which in fact, it makes as immutable as a law of Nature. That we are thus made an integral party of India, that great country of high ideas and glorious traditions to which the nation of the world look for guidance and which is the one potent

factor for the maintenance of world peace at the present day cannot but be a matter for unlimited jubilation for all of us and I cannot, Sir, refrain from offering joyous felicitation to the leader of the House and those associated with him in this sacred task on this sub line achievement.

I should be failing in my duty if I did not take this opportunity to say that ever since the present regime under the wise and positive leadership of Honourable Bakhshi Ghulam Mohammed begun to function, Ladakh has emerged from the dense fog of despotic tyranny and degrading servitude and exploitation into the bright sunshine of true democracy and Political and economic emancipation and that the intense solicitude of both the Governments of India and Kashmir for our development and prosperity for which no expense and endeavour are spared by either is already transforming our land beyond recognition. The recent appointment of Sir Datar Singh to push on the development schemes of Ladakh furnishes a measure of India's deep concern for our welfare and the step along with the measures adopted by the Kashmir Government brings home to us the deep anxiety of the two Governments to see their plans for our prosperity implemented without unnecessary loss of time. Shri Datar Singh permits me, Sir, to say, by the way, is using all his dynamic energy to lead us to our destined goal.

Before I resume my seat, may I say, Sir, that all Ladakh has gone into a hysteries of joy over the making of the Constitution for they are confident that it will not only ensure to them the continued enjoyment of rights conceded to them by the present Government but also secure to them the fulfillment of their aspirations by filling up the few lacunae which a catalogue of their demands reveals.

Thank you!

Hon'ble President: Maulvi Moh'd Anwar Shah.

***Maulvi Moh'd Anwar Shah Masudi:** Sir, the discussion on the Draft Constitution is going on for the last four days. Most of the Hon'ble members have expressed themselves on it. I do not think there is any necessity of discussing it in detail; however, I would also like to make a few submissions.

The most praise worthy thing regarding this Draft Constitution is that it has been based on the principles of "new Kashmir". It is a sacred agreement made with the people of this country by the National Conference, the most responsible Political party of the State. In it promise has been made to the people that after liberating the country from the bonds of autocratic regime, the administration of the State will be set up on the lines referred to in it. As soon as the conditions allowed us, the efforts to frame the Draft Constitution were made, and the same is before you today in its final shape. A Constituent Assembly of the State was constituted on the basis of adult suffrage and this body is Sovereign in every respect. The promise made to the people of this country that this House will be responsible for giving the Constitution a final shape, has been realized.

I feel a great joy to go through this Draft Constitution because every provision in it encompasses the needs of our country. History bears evidence to the fact that when in any country such conditions are created as are against the interests of the people, their eradication becomes imperative, and instead creation of such congenial conditions become a necessity as would ensure betterment of the people in all walks of life. I do not want to take the precious time of this Hon'ble House by going into details.

The basic needs of a man are food clothing and shelter and to usurp these is the worst kind of oppression. There are some minor necessities also

attached to it and it is necessary to enact laws in order to fulfill these. Besides, for the safeguard of the human rights an independent and sovereign High Court must be in the country.

Without going into details I would like to make a few submissions regarding the womenfolk of the State. Everybody knows that in the old regime the lot of women comprising nearly one half of the total population was extremely bad but now this Draft Constitution provides that the State shall endeavour to secure to all women the right to a reasonable maintenance extending to the cases of married women who have been divorced or abandoned. I do not think there could be a greater service than this to women. Islam has also paid a particular attention to secure the rights of women. I do not know about other religions but I am sure those too must have upheld the rights of women. Exploiting the ignorance of the masses, undemocratic regimes in the past did not take any step in this direction but now our Constitution gives a guarantee that the rights to womenfolk will not be ignored. We should be thankful to the Drafting Committee for the great work they have done. Another commendable work which the Drafting Committee has done is, that all necessary provisions for protecting the educational interests of the educationally backward sections of the people have been laid down in the Draft Constitution.

Sir, some of our friends did not only criticize the Draft Constitution and the decision of the House in respect of State's future but they also threatened us with a walkout. Keeping in view the position. I have in this House. I would like to say it without any reservation that I disagree with their logic and attitude. I am not saying so under some pressure or influence but on account of the fact that I have not been able to find any logic in their arguments. To justify their attitude they have observed that this

Assembly is not at all sovereign and has no right to take any decision. I do not want to go into details but I would certainly liked to ask my respected friends how has this Assembly which, according to their statements they made in the past was constituted as a sovereign and independent body which lost its representative and sovereign character in 1956. The attitude they have adopted does not behave them as members of this august House.(Cheers) while emphatically advocating the cause of plebiscite they have cleverly kept mum over an important issue namely which country among our neighbours that want us to accede to I would have certainly been pleased if they had been frank enough in stating what they believed to be true but it is useless to expect a man to be straightforward when he has always tried to create confusion and push his country into an abyss of darkness. In my opinion the National Conference has adopted a definite line on which it wants to lead its country. Every honest man can see that National Conference is progressively going ahead on the path which it has chosen. A man should in the first instance take a decision and then see whether he is following it honestly if he does so he is sure to succeed. Our past reveals that the larger interests of this country were marred always by selfish persons. Who adopted such courses as did not benefit the country to which they belonged but instead served outsiders in their nefarious designs. I remember it fully well, that the unanimous decisions of the House that it took in respect of the accession of the State was opposed by Mr. Gani alone. His opposition too was not absolute but conditional. While discussing the Draft Constitution Mr. Beg pleaded his case like a practitioner. He only quibbled with the words “in pursuance...” occurring in the preamble of the Draft Constitution and did not give any convincing arguments. He advanced his

arguments like a professional whose main interest lies in saving his client whom he knows to be the actual murderer.

In respect of the Sovereignty he observed that it did not vest in Maharaja Hari Singh. I fail to understand as to where lay the need of adopting a resolution in the past in this House to the effect of terminating hereditary ruler ship of the State, if Sovereignty did not vest in Maharaja was conferred upon his forefathers by the Treaty of Amritsar. National Conference had to launch a great agitation to abrogate this treaty. It was with this object in view that the National Conference unanimously agreed to pass a resolution to the effect of terminating the hereditary ruler ship of the State and thereby passing the Sovereignty, which vested in Maharaja Hari Singh in accordance with the stipulations of Treaty of Amritsar, on to the people of this country. Mr. Beg was the chief supporter of this resolution. Adoption of this resolution meant recognition of Maharaja sovereign powers. It is, therefore, clear that Maharaja was competent to execute the instrument of Accession. To challenge the validity this accession is, therefore, meaningless. Mr Beg has observed that this Assembly has no right to frame or adopt this Draft Constitution. If it is correct, why does he take the trouble of participating in the deliberation of this House.

While speaking about Pakistan held territory of Kashmir for which we have reserved 25 seats in this House he remarked that this House was not competent to take any steps in this behalf. Mr. Beg is contradicting his earlier statements wherein he has made it amply clear that Pakistan was in forceful occupation of those parts of the State. I do not at all agree with what he has said. Today, whatever, he is stating, no rational man can agree with that.

Referring to the Praja Parishad he stated: "Do we know what the Praja Parishad wants?" Let us reply the question he has posed. Praja Parishad is against the State flag and the elected head of the State. Praja Parishad opposes the same flag under which we have triumphantly fought every movement in the State from 1931 to 1947. Mr. Beg seems to be at pains to support the stand of Praja Parishad and opposes the India Constitution under which our State has been given special and Autonomous position. Article 370 of the Indian Constitution recognizes a special position for the State and it is under this article that we are entitled to frame our separate Constitution. Mr. Beg wanted to gain the sympathies of a few followers of Praja Parishad by espousing their cause in this House, but in doing so he has not saved the larger interests of the country and the people thereof. With these submissions, I conclude my speech.

Mr. President (Addressing the House): After concluding his speech, yesterday, Mr. Beg handed over a statement to me. He declared the names of those persons in the House who, he said, have signed it. Today, I have received a letter from an Hon'ble member of the House, the contents thereof I want to read out for the information of the House.

Srinagar
25-10-1956

Mr. President
Constituent Assembly,
Srinagar.

Dear Sir,

Mr. M. A. Beg yesterday expressed some views in the House on the basic issues concerning our state. He also a statement with which my name

has been associated. In the light of the views expressed in the Assembly by Mr. Beg I have now reconsidered the position and come to the conclusion that these views are at variance with the larger interests of the State. Consequently, I wish to have an opportunity of expressing my own point on these basic issues in the House and would, therefore, request that my signature may kindly be considered as withdrawn from the statement issued by Mr. Beg to enable me to participate in the proceedings of the Constitution Assembly.

(Sd/-)
A. G. Goni,
M. C. A

It seems that the statement handed over by Mr. Beg has created an impression in Mr. Goni that he cannot attend the deliberations of the House. Let me make it clear that whenever he wants to attend the House and participate in the deliberations thereof, he can come and do so. Any other Hon'ble member having any such misunderstanding should remove it from his heart.

Mr. Abdul Khaliq Butt: Sir, I am thankful to you for giving me an opportunity to express my ideas on this great occasion, when we are on the way to give a comprehensive Constitution to the people of our country. I would like to answer the objections raised by Mr. Beg in his sentimental but illogical speech. It is very sad that he is not present here. He tried to create confusion by his speech. While impressing upon us to be patient he himself became impatient and left the House. It shows that he knew he could not stand the force of Hon'ble Revenue Minister's sound arguments. It is also possible that Mr. Beg could not tolerate to see our present Revenue Minister occupying the same seat which he himself was occupying before.

Mr. Beg in his speech said that restrictions have been imposed on public meetings and processions in the cities and there is negation of civil liberties. But the freedom of action that we enjoy at present cannot be compared with the denial of the same before August, 1953. Before August, 1953, sections 3 and 24 were imposed everywhere in the State. Warrants already signed by the Magistrates were kept to issue the same against any person whom the officers of the day wanted to arrest. It was a period of chaos and lawlessness. If any person listened to the programmes of Azad Kashmir or Pakistan Radio, he was at once arrested. Today, conditions are altogether different. The head office of the so called plebiscite Front is at a stone's throw from the Secretariat and the workers of that organization freely do their party work for the last one year. They sometimes even beat the workers of the National Conference and still it is said that there is no civil liberty and that restrictions have been imposed on the processions and public meetings. What a statement of facts! I do not know what Mr. Beg means by civil liberties, perhaps by civil liberties; he means the same which he gave to the people before August, 1953. The fact is, that he does not want to see our country on the road of progress Mr. Beg tried to prove the accession of Kashmir with India as an accession made by the Maharaja alone. He tried to prove it as any legal practitioner would do. I am satisfied that our Hon'ble Revenue Minister shattered all his arguments. I would ask Sheikh Sahib and Beg Sahib if the accession was made only by the Maharaja, why not they raised any cry against it and how they in the past repeatedly said that the accession of Kashmir with India was irrevocable and final. Sheikh Sahib declared it many times that no force on earth can undo the State's accession with India. Who executed the famous Delhi Agreement and for whom a grand welcome was arranged at Banihal? I would like to ask

Sheikh Sahib, how, from 1949 to 1953 millions of rupees were got from India? How was it that the Jawans of Indian Army while defending our borders lost their lives? Was it all to deceive India? Does he not by his present attitude, dishonour the golden traditions and heroic struggle of the National Conference? Does it not bring disrepute to the great traditions of Kashmiri Muslims? Mr. Beg so often took oaths to support the accession of Kashmir with India. Let me refer him to his past public speeches wherein he declared it on oath that the accession of Kashmir with India was irrevocable. Will Mr. Beg please explain why is he contradicting his previous stand? He has tried to create differences amongst our Hon'ble members by his mischievous speeches. He has even claimed that some of the Hon'ble members are with him in his present stand but I would like to make it clear to him that we are not going to tolerate such charges in future. We according to our understanding represent people honestly and truly. He has also stated that this Hon'ble House has lost its representative character and is not a responsible body now. But I would like to ask him if it is not a fact that he gets family and other allowances as a member of this House.

So far as the Draft Constitution is concerned efforts have been made that every son of the soil is benefited by its provisions. It is based on the principles of 'New Kashmir'. Provisions have been made a safeguard the rights of women and 25 seats have been reserved in the House for the people living in the Pakistan occupied territory. Besides, a provision for establishing a Legislative Council has also been made.

There are some clauses which I have not been able to understand. Under section 56, the Sadar-i-Riyasat has been empowered to dissolve the House but I want to know under what circumstances can be exercise this power. Secondly, I want to know how a Minister can be recalled when he

does not follow the provisions of the Constitution. No provision for safeguarding the rights of the members of the Legislature exists in this Draft our Constitution should provide for the accommodation of Hon'ble members both at Srinagar and Jammu so that they do not face difficulties in this respect. As soon as the Constitution will be enforced in the State we will try to serve our country is firmly set on the road to progress. I am sure if we serve our people honestly and sincerely not only the people but the God Almighty himself will be on our side.

Mr. President: It is now 1.30 P.M I adjourned the House till 2.30 P.M for lunch.

Note:- The House adjourned for lunch.

Aga Syed Ibrahim Shah: Sir, as I cannot speak in Urdu, permission may please be given to me to speak in Persian.

Mr. President: You can speak in Persian,

Aga Syed Ibrahim Shah: Sir, the Draft Constitution beperly. I have hardly been able to grasp it fully. It has been through it. But, unfortunately I cannot understand Urdu properly. I have hardly been able to grasp it fully. It has been written on the first page of the Draft Constitution that there shall be liberty of thought, expression, belief, faith and worship. It has made me feel joyous. Not only I, but all the Hindus, Sikhs and Muslims of the State are happy with it because religious freedom is the most important thing for the people.

Yesterday, while delivering his speech Mr. Moh'd Afzal Beg referred to some Illaqas of Kargil Tehsil. I could not follow the full text of his speech but I have been able to understand this much that he challenged our right to ratify the accession on behalf of the people of Kargil. May be it is correct according to his present understanding. I and my people are simple and

straightforward and do not understand politics because of our illiteracy and backwardness. I want to know from Mr. Beg how he and his colleagues when they were in power, tried to convince us of the benefits that lay in acceding to India. I trusted them and agreed to what they said because I do not know much of politics. Without going into details let us see what were the conditions that prevailed in Kargil Tehsil when Mr. Beg and his colleagues were in power. I do not remember it exactly how many people died due to famine in illaqa Karacha. When the death toll reached more than 180 Mr. Beg took the trouble of visiting that Illaqa. His visit did not alleviate the trouble of the people because no relief was given at all. Hundreds died there unheard and uncared for Mr. Mir Qasim is our Revenue Minister now and we see today almost everything available in Kargil. This year two thousand maund of rice have been sent there so far. This year floods damaged some villages of Kargil. Telegrams were sent by the people for relief and only within two weeks time rupees twenty thousand were distributed among the sufferers by the Government.

Sir, I cannot understand the legal aspects of the Draft Constitution but I am pleased to say that provisions for religious freedom have been made in it. According to me, it is the most important thing. I congratulate the Government for preparing such a Draft Constitution and I whole heartedly support it.

Mr. Abdul Gani Trali: Sir, the Draft Constitution is being considered by the House for the last four days and most of the Hon'ble members have expressed their views on it. I would also like to make a few submissions.

Sir, the Draft Constitution before us is the embodiment of our aspiration and ambitions. It is the outcome of our political struggle which we launched in 1931. It represents the true sentiment of our people. Yesterday, Mr. Beg

tried to attract the attention of the House by his sentimental speech. Beg Sahib and Sheikh Sahib has repeatedly said at various places that the accession of Kashmir with 350 million people of India is irrevocable and no power on earth can alter it. When the U. N. O failed to decide the Kashmir question from every corner of the State people declared that they will decide the future of their State themselves. Under the pressure of this popular demand Hon'ble Sheikh Moh'd Abdullah convened the Constituent Assembly of the State? We have go his various speeches in which he has stated that we have convened this Assembly in order to refute the baseless stand of Pakistan. He has also stated that we have every right to decide our future and that is why we are convening the Constituent Assembly. Beg Sahib and Sheikh Sahib went to every Tehsil district and village of the State to impress upon the people that the decision of accession taken by this House was irrevocable. Their other colleagues like Sofi Moh'd Akbar and Maulana Moh'd Syed Masudi have also reaffirmed this stand thousands of times. In 20078 Sofi Moh'd Akbar told in Sopore that this Assembly was the only representative body of the State and it would take any decision which no power on earth could change. This body is also sovereign because people have convened it and thus it can take any decision. Yesterday. Mr. Beg grew too sentimental and tried to hide the facts like a tricky lawyer. I cannot understand how he dared to interpret facts wrongly. I and my other colleagues have understood his intentions.

The Draft Constitution which is now on the table of the House reflects our aspirations and will bring us prosperity and progress. It is a character of freedom. We have decided to accede to India After due consideration. I congratulate the members of the Drafting Committee who have drafted it in

accordance with the ambitions of the people of the Country. With these words I strongly support it.

***Bakshi Ghulam Mohammad:** Sir, the draft Constitution prepared by the Drafting Committee is being discussed in this august and sovereign House for the last four days. Various Hon'ble members have expressed themselves on it. I congratulate the members of the Drafting Committee for the great pain they have taken in completing it. I would also to congratulate the constitutional Adviser who worked day and night and made it possible to present this Draft Constitution before the country. This Draft is the embodiment of all those aspirations and ideals which we nourished not only for the last one or two years but right from the inception of our liberation movement. It is according to the aspiration and ambitions of the National Conference and is based on the golden principles of 'New Kashmir'. I would once again congratulate my self and this House for the same, (Cheers). We are presenting a Draft Constitution for the first time to our Country. Today is our day of destiny. A day which comes only once in the history of nations. We should hold our heads high for we have accomplished a huge task of completing a Draft Constitution which reflects all our desires and aspirations its presentation to the people was now overdue. It embodies the directive principles, sets out the pattern of the future set-up of the Government, and gives the form of our future administration. Along with it, it ensures the realization of all those human rights for which people have fought and given sacrifices. Today, I feel a great joy in achieving all these things through this Draft Constitution.

Yesterday, our old comrade Mr. Beg vehemently opposed the Draft Constitution. He in spite of the existence of proper arrangements of microphone etc. in the House spoke at the pitch of his voice. He infect

wanted to attract the attention of everybody present in the House by his speech. I heard every sentence and every word of his speech with rapt attention. He used many venomous and vituperative expressions and made some unsuccessful attempts to defame the present Government. He also challenged the competence of this House but having failed to win anybody over to his side he left the House. I was convinced that our Draft Constitution is complete in every respect because he could neither criticize any of its parts nor could he suggest anything new. He could make some personal remarks against Hon'ble Abdul Khaliq Butt. Hon'ble Mir Qasim and Hon'ble Renzu. In this way he took 1 ½ hour in pouring out his venom. I think I am fully justified in exposing him.

I need not throw any light on what were the ideas of Mr. Beg previously and what are they now but I would like to stress the fact that he has failed to find out a single objectionable point right from A to Z in the Draft Constitution. He had himself expressed the desire to participate in the deliberations of this House. Perhaps he had the impression that the Draft Constitution could be easily criticized. He has been the member of this House and the Chairman of the Fundamental Rights Committee. He has also been the member of the Basic Principle's Committee. He tried his best in the past to frame the Draft Constitution but failed miserably in his endeavour. I know Mr. beg fully and his mental dilemma. Today when he saw that the Draft Constitution prepared by Hon'ble Girdhari Lal Dogra is being discussed in the House he felt ashamed. With the sincere efforts of the present Chairman and the members of the Drafting Committee and the Constitutional Advisor Draft Constitution has been prepared according to the aspirations of the people. Mr. Beg wants to disintegrate the country for his personal ends. The Draft Constitution is now before you and you can see it

yourself that it contains all those Fundamental Rights and Directive Principles which are incorporated in the Constitution of India.

It reminds me of pre 1947 period when Mr. Beg and his colleagues would always advocate that the future Government of the State must be made responsible to the Legislature and that the Legislature must have the power to form the Government and dismiss the prime Minister. I don't want to go into details of what he or his colleagues said then, but I would like to make it clear that they wanted to invest the Prime minister with the power of dissolving the legislature. They wanted to disintegrate the country in various parts. Were it that Mr. Beg had the patience to listen to our arguments in the same calm and dispassionate manner as we listened to his speech yesterday whether the conditions prevailing when he was a Minister or the conditions as they are present are better. I leave it to the Hon'ble members of the House to judge because they understand the difference well. I would like to reply his two objections although these have already been answered by some of my colleagues specially Mir Qasim.

Mr. Beg has claimed that the state has not acceded to India. Every member of this Hon'ble House and every child of this Country knows what is the reality. I think every animate and inanimate object of this country knows that during last five years Mr. Beg has said in respect of accession issue and the competence of this House. Today, he is challenging the competence of this House to ratify the accessing on the grounds that the 25 seats reserved for the people living on the other side of the cease-fire-line have not been filled up so far and therefore the accession made by this House is not final. He has also challenged the very basis of accession. Let me remind him and his colleagues that it is not only I who is upholding the accession of Kashmir with India but Mr. Beg and Sheikh Sahib to have

supported it not only in India but in the Security Council, in Egypt and in England. Mr. Beg and his colleagues say that this House is not competent to take any decision in respect of State's accession but why it is so. I cannot understand. Their charge that we have put an end to democracy is equally baseless. Out of the 75 members of the House 65 are present in the Houses and only ten percent are absent. It is democracy to submit to the fascist tendencies of ten persons? If they think so, let me tell them once for all that such fascism has died with Hitler and Mussolini. The decisions of majority cannot be challenged by a negligible minority. It is the saying of our great Prophet that the decisions of majority should be accepted. The logic of Mr. Beg is queer. The way he left the house yesterday gave an impression that he could not agree with us simply because he had been removed from the post of the Revenue Minister. Let me tell him and his colleagues that in spite of their opposition, this House is not only competent to decide the question of accession, but is sovereign in every respect. No power on earth whether it be Pakistan, America, Security Council or the General Assembly, can change or alter a single word of the Constitution that will be adopted by us. It will be final in every respect. I requested him that we should sink all our differences and work together like old colleagues. I made it clear that if for the time being I along with Mr. Dogra and Mr. Qasim were at the helm of affairs it was likely that tomorrow he might be in our place. I told him to come and see that the Draft Constitution and point out any defect in it but he did not pay any heed to it and left the House.

As to what was the earlier view of Sheikh Mohammad Abdullah about the competence of this House, I would like to refer to you to the Assembly proceedings dated 5th November, 1951. According to it Mr. Beg does not

differ with me or Mr. Qasim but with his own colleague Sheikh Mohammad Abdullah. The statement is as follows:-

“Today is our day of destiny. A day which comes only once in the life of the 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 history will enable the people of Jammu and Kashmir, whose duly elected representatives are gathered here, to shape the future of their country after wise deliberations, and mould their future organs of Government. No person and no power stand between them and the fulfillment of this- their historic task. We are free, at least 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 the symbol of unquestioned monarchical authority, as free citizens of the ‘New Kashmir’ for which we have so long struggled”.

So far as the question of competence of this House is concerned, Sheikh Sahib has further stated in the same statement on 5th November, 1951:-

“Today, in 1951, embodying such aspirations, men and women from all corners of the State in this Constituent Assembly have become the repository of its sovereign authority. This Assembly, invested with the authority of a constituent body, 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, embodies ably in the American and French constitution, is once again given shape in our midst”.

It is not I but Sheikh Mohammad Abdullah who has to answer the objection of Mr. Beg. So far as we know this institution is sovereign and whatever decision it takes is irrevocable and no power on earth can undo it. This is what Sheikh Sahib stated. Let me refer you to what Mr. Beg has himself said. You will clearly understand the difference between Mr. Beg of those days and Mr. Beg of today. I leave it to Mr. Beg to judge it for himself as to what he stated previously and what he says at present. His statement as it appeared in the Free Press Journal of 1952 is as follows:-

“The question who is the aggressor is real, practical and extremely helpful if we want to take a decision in regard to further issues also. So long as the U.N. General Assembly or the Security Council tries to wrangle out that question or prevaricates, all the other issues flowing from it will always remain confused and any decision on them will be vague, indefinite and unhelpful”.

It is what Mr. Beg has said previously, and you have listened to what he has stated yesterday. Regarding the Constituent Assembly he observed in the following terms at Sopore:-

“You must, however, bear in mind that our accession with India is not that of the rulers and the ruled but that of the friendly Character. It will be ratified only by the Constituent Assembly”.

This is the statement of Mr. Beg that he made on 4th August, 1952 and the same was published in the Daily “Khidmat” of 5th August, 1952. In 1947 Sheikh Sahib while throwing light on the raids stated:-

“I reiterate it that our accession with India is irrevocable. Let hundreds of Commissions come here but they cannot by no ease shake this relationship of Kashmir with India”.

In 1949 Sheikh Sahib has stated:-

“The relation between India and Kashmir can be summed up in the following couplet!

.....
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.....

“I would like to assure Pt. Jawahar Lal Nehru once again that Kashmir belongs to Kashmir. No power on earth can separate us from him. We may have to encounter hardships; we may have to face misfortunes; we may have to fight odds, but we Kashmir’s are determined to continue our relations with India and no power on earthy can shake this relationship. We are first and last Indians. We are fighting for the same golden principles for which Gandhi Ji laid down his life. I would once again like to assure Pt. Nehru that a Kashmiri will never hesitate to give any sacrifice which is demanded of him on the cause of maintaining the liberty of his motherland”.

While referring to the possibility of holding a plebiscite in Kashmir. Sheikh Sahib said on January 27th 1949, in a meeting at Bombay:-

“The people of the state have already declared their verdict on the issue of accession and now they have only to ratify it”.

It is immaterial if instead of him we are ratifying it. On 13th February, 1950, Sheikh Sahib observed in Madras:-

“The people of Kashmir have united themselves with the people of India. It is the union of hearts which cannot be shattered. The people of India and Kashmir have the same ideals. Their leaders preach love of humanity.

As against it. Pakistan fans the flames of communal hatred. Here, we struggle for the maintenance of peace and in Pakistan they are preparing for war. Our ways are poles apart and there is not even a distant possibility of our coming together”.

On February 25th 1951, Sheikh Sahib said:-

“Those who have brought forth a resolution against the convening of Constituent Assembly intend to put impediments in the way of democratic evolution of a nation aspiring to set up Government on true democratic lines. It is our function as the lovers of democracy to go ahead and summon the Constituent Assembly because it is the only institution which represents the will of the people. We cannot afford to wait indefinitely and hamper the speed of our progress”.

On 3rd June, 1951, Sheikh Sahib again said in his presidential address in the annual session of the National Conference:-

“I feel a great joy in stating that the co-operation of Indian Government and people is mainly responsible for the progress we have made. Every time they have made. Every time they have encouraged us by their goodwill, help and sympathy. During the past two years the great ideals and principles of the National Conference to get the demands of the people of State recognized. When the State was attacked it was India that comes to our rescue by keeping its armed forces at our disposal. Since then our relationship with India has become deeper and unbreakably strong.

India has always appreciated and honoured our sentiments of freedom and self-determination and has given us fully liberty to frame our further policy in a constitutional way. What we have achieved so far would have been impossible had we not acceded to India. It would have been impossible for us to defend our freedom without the assistance of India. In any other

country, we would not have even been allowed to propagate our principles of secular democracy. Politically both India and Kashmir think alike. This unity of thought makes our friendship real and natural. Besides Pt. Nehru and his comrades have always been ready to safeguard our interests. The goodwill of Indian people is with us and I am sure that the people of the State will always try to deepen and strengthen their relations with India.

You can well understand that in order to do away with this deadlock and uncertainty the National Conference waited not for one or two years but for many years with the hope that the Security Council will do justice and settle the Kashmir issue. Having been disappointed the National Conference took the initiative and in October, 1950 its Executive passed a resolution to the effect of convening of Constituent Assembly. I have got the reports and proceedings of those meetings with me. Mr. Beg also participated in those meetings. I cannot understand how he said yesterday that the Instrument of Accession was agreed upon by the Maharaja only and not by us. However, what happened after the establishment of the Constituent Assembly is known to every member of that Hon'ble House. After convening the Assembly the then Leader of the Party made his inaugural speech and many other speeches in which he touched some important issues including the abolition of hereditary rulership, the election of Constitutional Head of the State, expropriation of landlords without awarding compensation to them and the most important of all the questions the accession of Kashmir with India. It was decided that the House was fully competent to settle the question of accession.

It was stated on the occasion of Id-ul-Zuha on 2nd September, 1952 in the speech delivered by Sheikh Sahib:-

“At every occasion we have expressed our sense of gratitude to Indian National Movement. It has always inspired our freedom struggle. We have fought against heaviest odds and difficulties only because we were closely associated with the great freedom movement of Indian people. Unity of ideals and principles has inspired the people of the State to establish relations with India, at such a juncture when the effort to keep us separate geographically and politically has almost succeeded”.

“Since our accession with India I have always felt confident that we can guarantee a life of prosperity to our hunger-stricken masses by going ahead with the implementation of our progressive and constructive policies. I am very much pleased that the Indian leaders have agreed with our decision of doing away with the hereditary rulership in Jammu and Kashmir State”.

“I am confident of the fact that we can maintain our positions only by permanently acceding to India, the great majority of the people whereof are desirous to establish their economic and political set-up on democratic lines. The support accorded to our decisions by the people of India is an effective and practical guarantee that full opportunities will be afforded to us to give practical shape to our progressive plans for improving the lot of our people”.

Further on 5th December, 1952, Sheikh Sahib said on the occasion of his Birthday:-

“We stand by the accession we have made thought the Instrument of Accession. Our efforts will be directed towards strengthening the basis of the mutual relationship of India and Kashmir”.

In these words lies the answer to the objections raised by Mr. Beg yesterday, now I will refer you to the speech made by Sheikh Sahib on 25th March, 1952, in this House. He has stated:-

“No one has been able to question this accession on legal and constitutional grounds. It is only Pakistan which says that this accession does not enjoy the backing of the people. Even so, the present dispute is how to enable the people to ratify the accession with India. It is clear, therefore, that so long as the people do not annul this accession. India cannot be expected to forego 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 a part of another country. What would happen in such an eventuality would be that the State would regain 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”.

On June 7th, 1952, it was also stated:-

“At present some illaqs are under the occupation of enemy and the people living on that side are separated from us. Today, we must pledge that unless this flag flies over Kohala, Mirpur, Gilgit, Askardu and other enemy occupied areas we will not rest. Our brethren have been separated from us on the name of religion, therefore, we must not rest unless they are once again with us because that is the greatest desire of the people of the State and the rank and file workers of the National Conference. Our movement is not only national character but it is the movement of every oppressor. Our brethren living in so-called Azad Kashmir are at present being oppressed by the system of Jagirdari which we have already abolished in our State”.

“The people of this country have proved it dozens of times that they do not tolerate any interference of other countries. If Pakistan or other great powers are under this nation that they can interfere in our internal freedom they are misled. Let there be discussions in the Security Council, the people of Kashmir will go ahead with the construction of New Kashmir.”

On 11th May, 1953, Sheikh Sahib said while addressing a party of students from South India:-

“There is no question of reiterating from the position which we have taken in respect of accession of Kashmir with India. The struggle for freedom has given birth to new India and we all shall work together to maintain her dignity and honour. The dignity of India is the dignity of Kashmir. If any unfavorable thing happens in India it will naturally affect Kashmir, because it is India’s integral part”

Sir, I have only referred to a few speeches of Sheikh Sahib which he has delivered from 1947 to 1953. Let me refer to one more speech made by him in the public meeting organized by the Jamiat-ul-Ulma, Calcutta on 8th January, 1951. He states:-

“I have been often impressing upon the Muslims of Kashmir that they shall have to live with the four million Muslims of India. I want to make my stand clear to the Muslims of Pakistan too. Like Mr. Mohammad Ali Jinnah we do not want to turn these four millions Muslims of India into scape - goats. We are determined to extinguish the fire of hatred by our blood”.

Was it that Mr. Beg could listen to all that I have stated here so far? On 19th January, 1953, Sheikh Mohammad Abdullah said:-

“You should understand what is the importance of Kashmir’s accession with India to an India Muslims. It is the guarantee of his glorious future. If Kashmir is separated from India the future of Indian Muslims will be dark. The dream of personal power which Mr. Jinnah and his colleagues used to see has been realized. They left Indian Muslims quite uncared for. It is only Kashmir which can save them from the present State of dejection and depression. It is, therefore, needed that Indian Muslims should strengthen the hands of those forces which support Kashmir’s accession with India”.

In April, 1948, Sheikh Sahib further Stated:-

“I am also stressing the fact that Pakistan does not want our help. It is a free dominion. Only those Muslims need our help who have been adversely affected by the communal hatred let loose by Mr. Jinnah. This hatred has created a havoc and only those people can well understand its significance who have witnessed how thousands of Muslims, Hindus and Sikhs were butchered. It is only the people of Kashmir who have abstained from indulging in this vandalism. That is why the people of India are looking towards us and Gandhi Ji in his last days has remarked that darkness rules every corner of India but in Kashmir the ray of hope is quite visible”.

On 14th February, 1950, Sheikh Sahib said while addressing to a meeting of Jamiat-ul-Ulma Madras:-

“Communalism should not form that basis of my political organization. If the Muslim Leaguer takes its birth again in India, only those persons will have their hold on it who believe in the fulfillment of their personal ends. Previously also only such people supported the Muslim leaguer as ultimately proved very dangerous for the country as a whole. In Kashmir, we have the National Conference as our Political Organization. It is not based on communalism but on the principles of nationalism because communalism is against the principles of Islam. Islam teaches us to fight for the cause of peace and believes in international brotherhood. Indian Muslims should consider themselves as true and faithful citizens of India and should strengthen Indian democracy they should understand that the more they serve their motherland, the more will their rights be guaranteed”.

Mr. Beg has raised another fantastic point that our accession is incomplete because we have reserved 25 seats for the people living in the so-called Azad Kashmir. This objection is also without any foundation. Just as

we did not fill up these 25 seats in the past, we have not filled them up even at present also. What ever we are doing here is being done for the people living on the other side of the Cease-Fire-Line. Time will soon come when we will receive them with open arms. We know under what oppression they are living there. In this context Sheikh Sahib has also remarked on 6th June, 1951:

“You know, that no decision has been taken in respect of our future for the last three years. You would naturally demand that so long as we do not liberate our brethren living on the other side of the Cease-Fire- Line, we should postpone the elections. But how long can we go on tolerating this uncertainty and indecision. After all, we have to decide our future, therefore, those who are free must avail of the opportunity of playing their part in making their future”.

As regards Mr. Beg’s contention that since we have kept 25 seats which are reserved for the people of so called Azad Kashmir, vacant, therefore, this House is not competent to take any decision in respect of the issue of accession. I would like to say, that if for the time being we suppose that all the 25 members from Azad Kashmir area vote against accession with India, even then the majority of total membership will be in favour of accession with India, because the minority of 34 members i.e. 25 members from Azad Kashmir and 9 members who have staged a walk-out will be ranged against the majority of 66 members. But let me assure you that all these 25 members would have voted with us, had they been present in the House. Keeping all these things in view, if Mr. Beg is still persistent to challenge the right of this House to frame a Constitution for the state and to ratify Kashmir’s accession with India and to take other minor decisions, the

following words of Sheikh Sahib are a fit answer to the objections of Mr. Beg:-

“I am confident that the people of both India and Kashmir are now fully aware and cannot be misled by anyone. The decision to accede to India has not been taken when our reason was clouded by sentiment but we have taken this decision after due thought and proper consideration. Those elements who want to weaken our relations are only under mining the sacred principles of humanity but they are playing a treacherous game with the freedom of motherland”.

It is in these terms that Sheikh Sahib has spoken about such elements in support of his objections Mr. Beg has yesterday quoted some passage from a published book of Shri V.P. Menon. It is a fact that Shri Menon is a competent Secretary in India and a respectable man but his position is in no way comparable with the position of this August House. Even if Shri Menon had written thousands of such books, the position would have been the same because a single word of this House is more weighty than all his books. Individual views have no significance before a well thought-out decision of this House. Before convening the Constitution Assembly there was a good deal of correspondence between the Government of India and the State Government regarding the power and sovereignty of this House and Mr. Beg knows every thing about it. In 1950, the question of convening the Constituent Assembly and the functions of this body were discussed. I read out the following passages from the records of this correspondence:-

“In the autumn of 1950, the question of convening constituent Assembly of the State of which mention had been made before in the letter of the Prime Minister of India dated 18th May, 1949, and in Article 370, was

mooted. The main functions which the Constituent Assembly was to discharge were:-

- (i) the question of the Accession of the State;
- (ii) retention or abolition of the Rule as the Constitutional Head of the State;
- (iii) the question of framing a Constitution for the State including the question of defining the Union sphere of jurisdiction over the State; and
- (iv) the question of awarding compensation to the landlords whose lands had been expropriated under the Big Landed Estates Abolition Act.”

There was a good deal of correspondence between the State Government and the Government of India on the question of the scope of the Constitutional Assembly and eventually Mr. Rajgopalacharia, Maulana Abdul Kalam Azad and Mr. Gopalaswami Ayyangar on behalf of the Government of India assured the Prime Minister of Kashmir that there was no disagreement with the views expressed by the State Government and those of the Government of India in regard to the subjects which would come up for discussion and decision before the Constituent Assembly (Vide Kashmir Prime Minister’s Letter to Mr. Gopalaswami Ayyangar dated 16th January, 1951). The same view had been expressed by the Prime Minister of India in his letter dated 9th February, 1951, which he had addressed to the Prime Minister of Kashmir from London. It was said therein:-

“I have no doubt that the will of the Kashmiri people must prevail in regard to every matter and it is they who will decide ultimately every question affecting the State.”

After December 29, 1950 it was further stated:-

“Normally the very idea of a Constituent Assembly is that it has the power to decide the question before it. We must presume this power and go ahead.”

It proves that a wrong picture of the whole position has been given with a view to challenging the sovereignty of the Constituent Assembly. Besides, the validity of the instrument of Accession has also been challenged about which Sheikh Sahib himself has said on 11th August, 1952:-

“These terms of the accession 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 this State in the proposed Constitution. Earlier to this, it had been agreed between the two Governments that in view of the 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 Power 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 the time when the bulk of the Indian Constitution had already been adopted. It was at this stage that the constitutional position of this State was determined in the Constitution of India. The representatives of the Jammu and Kashmir State reiterated their view that our association with India should be based on the terms of the instrument of Accession.”

Mr. Beg was also one of the representatives and the then leader of the group has stated in respect of accession:-

“The Accession of Jammu and Kashmir State with India was complete in fact and Law.....”

Now if Mr. Beg denies these facts, what can I say? He may be satisfied with his arguments but I would like to assure him that the misrepresentation of facts cannot help him. Human memory is not so weak as Mr. Beg and his colleagues think. I wanted to read out many more quotations which are with me but I cannot do so because of the limited time at my disposal. Other objections, if any, will be answered by Mr. Dogra. It has pained me to hear Mr. Beg misrepresenting the statements of Mr. V.P. Menon, Mr. B.N. Rao, and Mr. Gopalswami Ayyangar. Giving some reference from Pt. Nehru's Speeches Mr. Beg has said that Pandit Ji has gone back upon his pledges. I would like to impress upon Mr. Beg and his Yes-men that the glorious role which Pandit Ji has played in the world politics has not started from the date when Mr. Beg took over as the Revenue Minister of the State but it has begun far before the time when Mr. Beg was only a Political Prisoner. Pandit Ji has always come to our rescue. The charge made by Mr. Beg that Pandit Ji did not fulfill his pledges, is absolutely baseless.

Mr. Beg, while referring to military pacts said that these pacts especially the Baghdad pact did not change the context of Kashmir issue. Mr. Beg has condemned Pakistan for entering into such military alliances but while doing so he has also referred to the speeches of Mr. B.N Rao and Mr. Ayyangar which they have made in the Security Council. I would also like to make clear to Mr. Beg. That this House has ruled out the possibility of holding a plebiscite. It is the decision of the people of Kashmir. It is strange that after leaving the organization to which has belonged he should now choose to seek the support of Mr. V.P. Menon. He has perhaps

forgotten that historic speech of Pt. Nehru in which he traced the complete history of Kashmir. After 1947, conditions gradually changed with Pakistan's joining military pacts and there remained no need to hold a plebiscite in the State. Mr. Beg also hinted at the situation of Egypt and Algeria. It appears that Mr. Beg is uninformed of the real situation. Not only the sovereign rights of the Egypt over the Suez Canal are being challenged by the western imperialists, but they even have the designs of ending the sovereignty of Egypt itself. The role India and Pt. Nehru is playing in defending Egypt's right is not hidden from anybody. The attitude of Pakistan in forming Users Conference and serving the interests of aggressors are known to anybody now. Pt. Nehru has recently observed:-

“Today eight and a half years after, those armed forces are still there. All this talk of plebiscite and other things is completely beside the point.”

These words were spoken by Pt. Nehru on 27th March, 1956. He is not only responsible statesman and the Prime Minister of India but a beloved Leader of 400 million Indians. Now it is up to Mr. Beg to either understand the real significances of these words or to depend upon what Mr. Menon has written.

So far as the Draft Constitution is concerned Mr. Beg did not speak a word against it. I therefore, honestly and confidently felt that our Draft Constitution is complete in every respect. I do not claim to know its legal technicalities. That is the Job of legal experts. I know only this much that the members of the Drafting Committee framed the Draft Constitution in the light of the programme envisaged in New Kashmir.

Draft Constitution provides for the establishment of an Upper House (Legislative Council). We are now in a position to honour the commitment of the National Conference to the effect of associating people in the larger

members with the administration of the State. Now various Co-operatives, Panchayats. Towns Area and Notified Area Committees. Municipal Committee and Local Bodies will be represented in the Upper House. In this way, we can give due representation to millions of people. Members of the Upper House will discuss the requirements of their respective illaqas matters relating to languages development schemes and other things. They will give proper shape to everything coming before him.

I whole heartedly congratulate the Drafting committee for the pains they have taken in preparing this Draft Constitution. There are various other aspects of this Draft Constitution about which Mr. Dogra, the Chairman of the Drafting Committee, will speak at length. The Draft also will be discussed clause by clause and you will get sufficient time to give your valuable suggestions.

Had there been enough time at my disposal I would have quoted some portions of the speeches made by Hon'ble Sufi Akbar, Hon'ble Maulana Mohammad Syeed Masudi and other Hon'ble people. However, before winding up my speech I earnestly request in the name of the integrity and liberty of the State, in the name of India to the Hon'ble Members of this House and through them to the workers of National Conference and the people at large to sink their petty difference and work for the larger good of the Country. Our Constitution gives every man his due and all kinds of guarantees. We should all give up our prejudices and see things in their true perspective. There is nothing in our Draft Constitution which goes against the interests of even a single individual whether he be Hindu, Sikh, Christian or Muslim: whether he belongs to a minority or majority. Both minorities and majorities are safe here. Neither will the majority be changed into

minority nor will the minority be converted into a majority. Nobody's rights will be endangered and full justice will be done to everybody.

Sir I have not been able to read out all the statements, Quotations and resolutions etc. in the House, I, therefore, request you to allow me to place these on the table of the House. Sir, I fortunately belong to that political party of the State which gave political consciousness to the people, and lead them to the destination at which they stand now. It is on account of the sacrifices of his organization that we today speak in terms of democracy and the fundamental rights. The same political party in its convention held in October, 1984, passed the following Resolution:

“in these circumstances this convention, therefore, confirms the provisional accession of the State with India. It further pledges its fullest support to a final accession to India on the basis of “New KASHMIR” the realization and implementation of which will be our first and foremost task”.

I have many other quotations covering about 20 pages. If I only read them it will take 1 ½ hour. I, therefore with your permission place them on the table of the House so that they form a part of the proceedings.

Note:- The enclosed quotations placed on the table of the House will form a part of the proceedings.

I would once again thank the Members of the Drafting Committee and the Constitutional Adviser. In the end, I would request the Members of the House to thoroughly discuss the Draft Constitution and remove its defects, if any.

JAI HIND, JAI KASHMIR. (Prolonged Cheers)

Mr. G.L. Dogra:- Sir, I have listened carefully to the discussion on the Draft Constitution and before saying anything I would like to thank the leader of the House who has studied it minutely and has appreciated it also.

Besides, I would like to thank all other Members who have tried to understand it properly. Most of them excepting our old friend Mr. Beg have supported it. He did not speak anything on the merits of the Draft Constitution but only picked out a word from the preamble and made a lengthy speech on it. I need not reiterate what he said here. He said that we have disintegrated the State and are offering a part of the State on a platter to Pakistan. I cannot understand now this idea came to him. For the information of Mr. Beg I would like to State that we have clearly given the definition of the territory of the State in our Draft Constitution. The territory of the State shall comprise all the territories which on the 15th of Day of August, 1947 were under the sovereignty or suzerainty of the ruler of the State. All these territories will be considered the territories of the State of Jammu and Kashmir. Like an expert in falsifying and destroying facts Mr. Beg has misrepresented everything.

Another contention of Mr. Beg is that we are committed to hold a plebiscite in Kashmir and the House cannot go against it. I would like to ask Mr. Beg who made this commitment? Is it the Security Council or Sir Zafarullah Khan who has made this commitment on our behalf. So far as the National Conference, this House or any leader of Kashmir, is concerned no such commitment has been made. In this respect, our stand is definite and clear. We as well as India have always stated that people of Kashmir will themselves decide their future and they have already taken decision to that effect. He also said, that only the then Ruler of Kashmir has signed the instrument of Accession but he should know that he did so after the approval of National Conference - the representative political organization of the State. It was approved by the National Conference on behalf of the people of the State and the persons who signed on behalf of the National Conference

were Sheikh Sahib and Mr. Beg. What stand they took in the past is full known to the House. The National Conference has always maintained that it is with object of setting of country firmly on the road to progress and prosperity that was acceded to India and this aim of the National Conference is led out in the preamble of the Draft Constitution. The Draft is not before the House and they contradiction which Mr. Beg feels, is not in the Draft but it is in his own stand and statements. Why has he forgotten the manifestos which enable him to fight elections and get himself elected as the Member of the House? Today, he says that this House is not competent to decide any issue and only the people of Kashmir can decide things. This logic seems fantastic and without any weight. He has so often accepted the representative character of this House and today when he has taken a wrong path he speaks otherwise. He said that we should ask the opinion of every single individual of the State in respect of each and everything. I would like to tell him that in the history of world such procedure has never been followed. I do not question his knowledge of Law or political history but I cannot resist saying that he is not well informed. On the one hand, he says that plebiscite should be held in the State and on the other he is against the BAGDAD and SEATO PACTS. Keeping it in view. I fail to understand what in fact he wants he wants. As Maulana Mohammad Anwar Shah Masoodi said, that Mr. Beg has no moral courage otherwise he would have clearly stated his intentions. He only wants to create confusion. When we ask him whether he wants to see this small State of Kashmir independent he feels enraged. All these things clearly prove that he wants nothing but to create confusion. Mr. Beg said that one of the arguments advanced by certain people was that Kashmir's accession should continue because that will safeguard the rights of the Muslim minority of India. He further stated that the people of Kashmir

cannot be kept as hostages for the safety of Muslims in India. I say it with confidence that this argument was never advanced in support of Kashmir's accession with India. This argument is Mr. Beg's invention. Even communalists are tolerated in India. I see no reason as to why Mr. Beg cannot live there securely. In the past, Mr. Beg always spoke that this House was competent to take any decision it liked, but I cannot make out as to why he takes a different stand now. When this House was constituted Maulana Mohammad Sayeed Masoodi said in a convention held at Anantnag that the accession issue cannot be decided by a plebiscite but by the decision of the Constituency Assembly.

Mr. President:- You will please complete your speech in a minute.

Mr. G.L. Dogra:- Sir, I request you to allow me to speak for sometime more so that I may tell the House what has been the opinion of certain people about this Draft Constitution.

Sir, when a question was asked from certain quarters regarding the Regional Council formed in the Punjab.....

Mr. President:- you will have ample time to make us understand the significance of these Regional Councils etc., I want you to finish your speech before 4.30 P.M.

Mr. G.L. Dogra:- Sir, without saying anything more I would like to thank you and the Constitutional Adviser on behalf of the Drafting Committee for your valuable advice and guidance.

Mr. President:- (addressing Mr. Dogra) please move the motion.

Mr. G.L. Dogra:- Sir, I move that the Draft Constitution of Jammu and Kashmir settled by the Drafting Committee appointed in pursuance of the Resolution of the Assembly dated 20th October, 1953, be taken into consideration.

Mr. S.L. Saraf:- Sir, o second the motion.

Note:- The motion was put and adopted unanimously.

Note:- Mr. President then read out the orders of the day from 29-10-1956 to 10th November, 1956 and advised the members to submit their amendments two days earlier on clauses, which would come up for discussion before the House on the days mentioned therein.

Mr. President: - With this concludes the business of the day. We will meet again on 29th October at 11.A.M.

Note:- The House then adjourned till 11 O'clock on Monday, the 29th October, 1956.

ANNEXURE

The following statement was placed on the table of the House by Bakhshi Ghulam Mohammad, the Prime Minister of Jammu and Kashmir.

With the introduction of the draft constitution in the Jammu and Kashmir Constituent Assembly the State is entering a decisive phase on the path of democracy and progress. Now that the Assembly is concluding its labours, it is worthwhile, to recall the circumstances under which it came into being. The Constituent Assembly held its first meeting on 31st October, 1951 and during this period far-reaching developments have come about internationally as well as inside the State.

The State of Jammu and Kashmir happened to be one of many vexing international disputes which defied all attempts for a peaceful settlement in accordance with the wishers of the people of the State. In October, 1947, the State became a victim of aggression at the hands of Pakistan which obliged the Ruler to seek immediate military assistance from India. He was supported in this request by the leaders of the National

Conference the largest political party of the State. This decision was influenced not only by consideration of immediate national security but also by the deep ideological and political ties which the people of the State had with those of India. The accession of the State was, therefore, a logical consequence of the deep political association between the State and the rest of India.

Meanwhile, India deemed it necessary to make a reference to the Security Council to secure its support for undoing the consequences of aggression which Pakistan had let loose on the State. Unfortunately, the complications in the international situation prevented the Security Council from taking a dispassionate and impartial view of the problem with the result that the Kashmir issue was un-naturally related to other international developments. Extraneous considerations were imported into the attempts at finding a peaceful settlement of this issue. In all this protracted process of negotiations the wishes of the people of the State were totally ignored and consequently they viewed their suggested solution with suspicion and distrust. These reactions were sharply reflected in the resolution passed by the all Jammu and Kashmir National Conference which had been entrusted with the responsibilities of the administration. Sheikh Mohammad Abdullah, the then leader of the Party, stated these views before the Security Council itself. In 1948, while addressing the Council, he said:-

“How am I to convince the Security Council that the denial is absolutely untrue? I am sitting before the Security Council to a distance of thousands of miles from my country. I have fought many battles, along with my own men, on the borders of Jammu and Kashmir. I have seen with my own eyes the support given by the Pakistan Government, not only a supply bases, but in providing arms, ammunition, direction and control of the

tribesmen; and I have even seen the Pakistan army forces from across the border..... I again request that, I order to settle this issue of Kashmir; the Security Council not confuses the point in dispute. The Security Council should not allow various other extraneous matters to be introduced the only issue before the Security Council is that Pakistan must observe its international obligations and must not support any outside raiders.”

The undue delay which the Security Council permitted itself in finding a suitable solution of the issue of accession considerably arrested the progress of the State towards social and economic development. While in the rest of India people were well set on the path democratization, the State was not only the subject of an intense controversy but found its progress blocked.

So far as the National Conference and the majority of the people were concerned, they welcomed the initial reference to the Security Council as affording an opportunity of demonstration the propriety and correctness of their decision to accede to India. The leaders of the National Conference, time and again, reiterated their faith in the continued accession of the State with India. As early as October, 1948, a special convention of the National Conference made the position very clear in the course of a resolution. The resolution stated:-

“In those circumstances this Convention, therefore, confirms the accession of the State with India. It further pledges its fullest support to a final accession to India on the basis of New Kashmir, the realization and implementation of which will be our first and foremost task. The convention strongly hopes that the Indian Government and the people of India will lend the people of Kashmir all material, moral and political support in completing this task and in achieving our goal of economic and political freedom.”

Sheikh Mohammad Abdullah later amplified the National Conference stand. Addressing an Id gathering in Srinagar soon after the convention, he declared:

“The decision taken by the special convention of our National Conference was the logical outcome of a year of hardships and suffering perpetuated on an innocent and peace-loving people by Pakistan troops, the pledge I gave to Pt. Nehru last year that Kashmir will be a part of India has now become an eternal bond. We can never forget the help rendered by Indian Army and the people of India at a time of grave crises in the history of our State. Indian troops have even provided the local people with their own rations to save them from starvation. It was after full knowing India’s attitude for over a year that the decision for permanent accession was taken a decision which would affect the destiny of the entire population of the State for generations to come. Our decision to accede to Indian is based on fact that our programme and policy are akin to those followed by India.”

Hindustan Times, Oct. 1948

He added:-

“The special convention called by Jammu and Kashmir National Conference has given a definite lead to the country. After one year’s hard sufferings bitter experience and deep deliberation we took a decision which affects the people of the State for generations to come. We are happy over it. For it is also in accordance with the principles of Islam.” In the course of a press interview in Delhi he said:-

“We could not have achieved so much in Kashmir if assistance from the people of India had not come so freely and ungrudgingly. We were

tremendously fortified in a just stand by the spontaneous help of men and material given to us by Government of India. I cannot imagine what would have happened if the Indian Army had not arrived in time. The people of Kashmir and the gallant Indian army fought against the savage hordes not for territorial gain. But for the preservation of the way of life for which the great father of the Nation made the supreme sacrifice. We have received.....nothing but sympathy and assistance from every one in India, high and low, official and nor-official. They have made our cause their own and have covered us with an affection which we can never forget..... We the people of Jammu and Kashmir have thrown our lot with the Indian people not in heat of passion or a moment of despair, but by deliberate choice. The Union of our people has been fused by the community of ideals and common sufferings in the cause of freedom. India is pledged to the principle of secular democracy in her policy and we are also in pursuit of the same objective.”

(National Herald, June, 19, 1984)

In a press conference in New Delhi on September 29, 1948 he said:-
We have burnt all our boats. There is no place in Kashmir for a Theocratic State. Kashmir will never make a plaything of India's honour.”

He told a Madras audience on February 12, 1950:-

“We can see a ray of hope in Pandit Nehru and other leaders of India, who are trying to resist communal theories in India and everywhere in the world. But in Pakistan the position is unmistakable. It is a theocratic State interested only in preserving vested interests and communal reaction.”

In view of this unequivocal stand on the issue of accession to India the National Conference took a gave view of the delaying tactics of the Security Council in finding a just and equitable solution of the problem in accordance with the wishes of the people of the State. It was becoming evident that such a just solution could not be forthcoming so long as international conflict continued to influence the opinions of the members of the Security Council on all issues. The result of anxiety of the people of the State was reflected in the statement issued by the leaders of the National Conference, Sheikh Mohammad Abdullah said:-

“Soon after the united Nations Charter had proclaimed the fundamental freedoms of Nations our country was suddenly made the victim of an unprovoked and wanton aggression. In vain we sought the assistance of the United Nations Organization to undo this aggression, which had resulted in untold suffering for thousands of innocent people of the State. To our utter amazement of instead of giving a clear verdict on the war guilt of the aggression, our rights and the bona fides of India were questioned. As a consequence of this refusal to enforce the fundamental principle of the Chapter, the United Nations Organization repeatedly failed in its attempts to arrive at a peaceful settlement of the Kashmir problem. Under the pretext of referring the question of the State’s future disposition to the will of the people the Security Council tried novel and astounding method which were not connected even remotely with the basic issue of accession. In all sincerity and good faith we suggested time and again that as the question of their future was the primary concern of the State’s people themselves it should be made possible for them to express their will on this all important issue and for this we suggestion that it was necessary to restore such condition as obtained in the State before the invasion with an effective

guarantee against further aggression. This was the crux of the problem and if the Security Council had accepted this basic proposal it would have brought about the peaceful settlement of the dispute. But the Security Council proceeded to recognize the claims of the aggression and permitted him to enjoy the fruits of his aggression. Under these circumstances a free and impartial plebiscite would have become not only a mockery but would have imperiled the security of the State” Addressing the A.L.C.C. Session at Bangalore, he said:- “ Kashmir had waited patiently for the last three years for getting justice at the hands of the United Nations. But that body had failed to do justice to Kashmir, It allowed interested powers to bring about extraneous influences to bear on the solution of Kashmir”.

(The Hindu, July 5,1951)

From the manner in which the Kashmir issue being handled by the Security Council, it was becoming clear that the initial plea which had occasioned a reference to the Council was being totally ignored and consequently there was a tendency on the part of some members to cloud the basic issue. While the Principle of self determination to the people of the State was being apparently conceded, the manner and method of the exercise of the right were such as would have surely added to confusion and resulted in more upheaval in this part of Asia. The National Conference, as the representative political organization of the people of the State took timely notice of all these dangerous tendencies which threatened the sovereignty and integrity of the State. The concession yielded by the Security Council to the aggression made it evident that justice and fair play could hardly be expected from the interested members of the Council who wanted to Intervene actively in the state and foist a decision of the people of the State. In view of this grave threat the National Conference rejected the proposals

that were mooted in the Security Council by some of its interested members in a statement to press the then president of the National Conference said:

“No plebiscite is possible without the sovereignty of the legally constituted Government of Jammu and Kashmir being effectively extended over the entire territory of the State, disbandment of the so called Azad Kashmir Government and its forces and withdrawals of Pakistani troops and nationals.”

In an other statement made earlier, Sheikh Moh’d Abdullah declared:

“But there can be no plebiscite in Kashmir unless and until the Pakistani and so called Azad Kashmir forces are withdraw from the state over the entire territory of Jammu and Kashmir State is recognized.” In statements to press in Srinagar, he declared:

“ I have often said in the past and report that the irreducible minimum condition for the settlement of the dispute are firstly restoration of the territory of the State to the lawful Government and the consequent liquidation of the so called Azad Kashmir Government its forces and secondly rehabilitation of those who have left places of residence after the raids and consequent disturbances. These two factors are the keynote of the whole problem and any denial of their fulfillment would mean drastic deviation from fundamental principles on which the people of the State have taken their stand.”

A stage was reached when the question of State’s constitutional progress became a matter for serious concern to the people of Jammu and Kashmir Since the Security Council had failed to evolve a satisfactory solution of the Kashmir problem for four long years creating conditions of draft and uncertainty, the Government and the people of the State felt impelled to recover the initiative for the purpose of establishment a

democratic forum which will ascertain the wishes of the people on all the issues relating to their future. Since the pattern of the State's social economic and the political development largely depended upon its external affiliations the accession of the State to India was fundamental issue of decision. The National Conference took the view that accession to India being perfectly valid legally morally and politically, the people of the State could no longer be denied the opportunities of social progress that were afforded to them by virtue of being a part and parcel of the India Union. Consequently the idea of convening a Constituent Assembly, which had been envisaged, earlier both in the Indian Constitution as well as in the proclamation of the Ruler on 5th March 1948, whereby power was transferred to the representatives of people was seriously mooted. The Prime Minister of the time gave a broad indication of this in the course of an interview with the correspondent of American magazine "LOOK". He informed the correspondent: " In case the Security Council finds it self incapable of arriving at a decision in the near future, it is upto the people of the State to find ways and means of asserting their will so as to put an end to the agony and uncertainty of the present situation. They will in that case convene a Constituent Assembly which would determine their future and among other things, decide the question of the State"

Against this background of repeated failures of the Security Council to evolve a peaceful and democratic solution of the Kashmir issue, the National Conference felt that the time had arrived for the State Government to take immediate steps to arrest a growing sense of suspense and uncertainty in the State. Accordingly the General Council of the National Conference, in October 1950 issued a mandate to the party for the convocation of the Constituent Assembly for the purpose of taking decision

on all vital issues concerning the future shape and affiliation of the State. The resolution stated: “ The indecision and unrealistic adopted so far has condemned the people of the State to a life of agonizing uncertainty the all Jammu and Kashmir National Conference is gravely concerned and cannot any longer afford to ignore the perpetuation of these conditions of doubt and frustration. In the opinion of General Council. Therefore, time has come when the initiative must be regained by the people to put an end to this indeterminate state of drift and indecision”. The General Council, therefore, directed: “The General Council recommends to the Supreme National Executive of the people to take immediate steps for convening a Constituent Assembly based upon adult suffrage and embracing all sections of the people and all Constituents of the State for the purpose of determining the future shape and affiliations of the State of Jammu and Kashmir. In this sovereign Assembly embodying the supreme will of the people of the State we shall give over selves and our children a Constitution worthy of the principle of “ NEW KASHMIR.” The decision of the National Conference to convene a Constituent Assembly for the State was welcomed by Sheikh Moh’d Abdullah and Mr. M.A.Beg. Addressing the Annual Session of the all Jammu and Kashmir National Conference on June 1,1951, Sheikh Abdullah declared:- “....In view of this prolonged statement the General Council of the National Conference once again met in October last year to re-examine the position. It came to the conclusion that In order to put an end to the agonizing uncertainty and suspense, the people could no longer afford the perpetuation of these conditions of doubt and frustration. It felt that the initiative must be regained by the people to put an end to this indeterminate state of draft. It may be observed here that this was no new decision because as early as 1948 the General Council had urged the

Government to convene a Constituent Assembly intended to shape the future destiny of the country and to implement the cherished objectives of NEW KASHMIR". At a reception at Calcutta he said: "... The current problems of Kashmir are so complicated that I do not know where to begin and where to end. It is fairly well known to everybody how Pakistan has felt about our problem. But so far as people Kashmir are concerned they feel that they have waited for long and it is very difficult on their part to live in uncertainty once for all. With this in view the people of Kashmir have elected a properly constituted Constituent Assembly to take decision in vital matters. This has not probably been palatable to our friends in Pakistan. But so far as we are concerned we do not find any other way. Whatever Pakistan may say or do the people of Kashmir are bent upon framing their own Constituent Assembly and taking decision on vital matters that have awaited their decision."

Mr.M.A. Beg, while addressing a Martyrs' Day meeting held about this time at Bijbihara (Kashmir) declared: -

"We are determined to set up a Constituent Assembly with a view to removing the grim suspense and the uncertainty through which we have passing after attaining freedom three and a half years ago."

Addressing a public meeting later in Anantnag, he said:

The establishment of Constituent Assembly means to lay the foundation of complete freedom. The future historian will present this event in letters of gold. Every adult man and woman will have the right to vote so that they can exercise their free will and thus participate in the building of the country. This far-reaching decision had worldwide reactions. While democratic people in all countries welcomed this decision, some interested quarters seemed to feel alarmed as they disliked the idea of initiative passing

into the hands of State's people themselves. Accordingly, they approached the Security Council seeking to prevent the convoking of the State's Constituent Assembly. In this connection the Anglo-U.S. draft resolution stated: " Observing that on October 27, 1950, the General Council of the Jammu and Kashmir National Conference adopted a resolution recommending the convening of a Constituent Assembly for the purpose of determining the shape and affiliations of the State of Jammu and Kashmir: observing further from statement of responsible authorities that action is proposed to convene such a Constituent Assembly and that the area from which such a Constituent territory of Jammu and Kashmir. Affirming that the convening of a Constituent Assembly as recommended by the General Council of the all Jammu and Kashmir National Conference and any action that Assembly might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute disposition of the State in accordance with the above principle"

The serious notice which the Security Council took about the decision of the National Conference was a clear recognition of the vital importance of this decision. Sheikh Abdullah issued a long statement criticizing the Anglo-U.S. draft resolution and asserted once again the right of the people of this State to decide their future through the instrument of the Constituent Assembly, He said:

".... The attitude which the draft resolution reveals towards the Constituent Assembly comes as a painful reminder of all the dilatory means, which have so far delayed subjecting Pakistan to the penalties of an aggressor who has invaded our country. On the other hand, the promoters of the resolution towards the Constituent Assembly appears as an attempt to stay the democratic development of people who wishes to built the frame

work of their Government in democratic people demands convening of the Constituent Assembly. It is the highest organ reflecting in the people's will. We cannot wait indefinitely and hold up our march forward.. We want to go to our people. We want to get their mandate. We want to draw sanction from their will. Surely any individual that denounces such a move cannot be sympathetic to the vital spirit of democracy. The objection that our being in the Government while elections are held will be prejudicial to correct expression of the popular will is not valid can any democratic Government say England USA, France or even Pakistan show any example when the Government in power come out of office while election were on? If not, then why in the case of Kashmir is such great exception being taken to the Constituent Assembly being convened with the present Government in office?

Not only that, but objection is being raised to the Constituent Assembly being convened at all. Those who raise these objections surely are sufficiently aware as a constitutionalist that such objections are an attack on the prerogative of the Government to seek these confidences of its people. Further, It is an anti-popular move which seeks to deny a people its sovereign right to self-determination, a right which is an inalienable as the soul of democracy.” Undeterred by external pressure, the State Government proceeded to take appropriate steps for creating suitable machinery for holding elections to the Constituent Assembly. The elections were duly held in September 1951 and 75 members were returned from the various constituencies in Kashmir, Jammu and Ladakh. In addition 25 seats were reserved for areas held illegally by Pakistan. The voting took place on the basis of adult suffrage and first sitting of the Constituent Assembly was held on 31st October, 1951 at Srinagar Sheikh Moh'd Abdullah as the then

leader of the House made a statement of objectives and clearly defined the tasks facing the Constituent Assembly, He said.

“You are the sovereign authority in this State of Jammu and Kashmir; what you decided has the irrevocable force of law. The basic democratic principle of sovereignty of the nation embodied ably in the American and French Constitutions is once again shape in our midst. I shall quote the famous words of Article three of the French Constitution of 1791. The source of all sovereignty reside fundamentally in the nation... Sovereignty is one and indivisible, inalienable and imprescriptibly. It belongs to the nation” What are the main functions that the Assembly will be called upon to perform? “One great task before the 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 broad aspects of the Constitution, which should be the product of the labours of this Assembly. “ Another issue of vital import to the nation involves the future of the rival Dynasty. Your decision will have to be taken both with urgency and wisdom. For on that decision rests the future from and character of the state. The third major issue awaiting your deliberations arises out of the Land Reforms that the Government carried out with vigor and determination. Our ‘land to the tiller’ policy brought light in to the dark homes of the peasantry; but side-by-side it has given rise to the problem of the landowners 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 the three alternatives that I shall state later, declare its reasoned conclusion regarding accession. This will help us to canalize our

energies resolutely and with greater zeal in which we have already started moving for the social and economic advancement of our country.”

On the crucial political issue, namely, State’s accession with India he discussed the various alternatives and rejecting the possibility of state’s accession to Pakistan or its independent status, he observed: -

“The Indian National Congress has constantly supported the cause of the State’s freedom. The autocratic rule of the princes has been done away with an 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 on their very independence of spirit. Naturally, if we accede to India there is no danger of a revival of feudalism and autocracy. Moreover, during the 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 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 the population is Hindus. Any unnatural cleavage between religious grounds is the legacy of Imperialism and no modern state can afford to encourage artificial division 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, color, 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, and our common path of suffering in the cause of 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 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 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 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 intact, that these economic reforms of ours will be tolerated? We have already heard that news of our land reforms has traveled to the peasants of 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 markets for these precious goods, for which we are justly known all over the world, have been centred 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 raw materials of industries; we need help to develop our resources. India being more highly industrialized than Pakistan, can give us equipment, 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 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 living of the man-in-the street depends”

As per work of constitution making was in progress, it became necessary to give effect to certain interim provisions of the constitution as per recommendations of the Basic Principles Committee. Some of these decisions involved corresponding changes in the Indian Constitution in respect of those provisions which applied to the State of Jammu and Kashmir, Accordingly, as a result of consultations with the Government of India an agreement was arrived at in July, 1952, on the following issues: -

- (a) Residuary powers;
- (b) Citizenship;
- (c) Fundamental rights;
- (d) Supreme Court of India;
- (e) National Flag;
- (f) The President of India;
- (g) The hardship of the state;
- (h) Financial Integration;
- (i) Emergency Provisions; and
- (j) Conduct of election to Houses of Parliament.

This agreement was endorsed both by the Union Parliament and the Constituent Assembly of the state. Commending these decisions to the Constituent assembly Sheikh Mohammad Abdullah made the following observations.

“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 the Government of India and Kashmir Delegation, have been 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 of the Government and the people of India in the fulfillment of our democratic ideals and the realization of our objectives.”

Earlier on his return from Delhi, Sheikh Mohammad Abdullah has addressed a public meeting in Jammu where he stated;

“This is not a paper agreement but a union of hearts which no power on earth can loosen.”

(Two Nations and Kashmir Page 169)

Now that the task of finalizing the constitution had become smooth, it was widely expected that all the decisions arrived at between the Government of India and the State Govt. would speedily be implemented. Unfortunately, however, there was inexplicable delay which gave an opportunity to certain antisocial and communal elements to cast doubts on the sincerity of the leadership. Without understanding reasons, the process of constitution making was halted thereby giving a handle to these elements to exploit the situation in their own favour. Certain unhealthy tendencies began to emerge among a section of the people, which manifested themselves in the shape of demonstrations in Jammu where the Government had moved for the winter months. The right course for reassuring public opinion all over the state would have been to implement the Delhi Agreement and proceed ahead with the task of finalizing the constitution so that the fides of the Govt. in

this respect would not become suspect. But it soon became evident that some leaders of the National Conference were having second thoughts, not only with regard to Delhi Agreement, but also on the question of Indo-Kashmir relationship itself. This further aggravated the situation as a good deal of confused ideas came to be expressed by these leaders.

The majority of members of the constituent Assembly viewed this development with grave concern and they made persistent efforts to impress upon the leaders to finalize the process of constitution making. During this period, attempts were made by a few members of the Assembly to impart novel and fantastic suggestions in regard to the basic issues. All these dilatory tended to vitiate the atmosphere and further create conditions of tension and instability.

Finally, the working committee of the National Conference met in May, 1953, for the purpose of settling all outstanding issues connected with the drafting of the constitution.

A sub-Committee was set up to prepare an appropriate draft. At this stage the difference among the working committee members were reviled sharply. While the majority of members reiterated their faith in principles and political commitments made by the National Conference all along, a few of them dramatically staged a volte-face asserting that the entire basis relationship with India needed a drastic revision. The minority group, led by Sheikh Mohammed Abdullah and Mr M.A.Beg, however by virtue of their responsible position in the Government and the organization, created a peculiar situation. Though they failed to persuade or convince the majority of members of the constituent Assembly or the National Conference Working Committee of their point of view, they continued to enjoy the privileges of their offices, which had been given to them by the National

Conference to whose basic policies they were now opposed. This situation threatened the state with a grave crisis. The right course for the minority group was to resign their offices and canvass public support for their point of view. Instead, they adopted a course of action which clearly aimed at repudiating all the past commitments and policies of the National Conference, secondly, paralyzing the administrative machinery, creating conditions of disorder and unrest and in helping unleash forces of communal reaction. This was a situation, which was quite in accord with the pattern visualised by certain interested foreigners whose intervention-ary activities had been on increase in recent years. This group of National Conference leaders had been subtly advocating an independent status for the valley of Kashmir, leaving the rest of the state to be divided. Their support for the alternative of independence for the valley became more pronounced as soon as they found themselves isolated from the mass of the people, who had been complaining bitterly against several hardships inflicted upon them as a result of wrong policies pursued by these Members. They thought that by proposing independence for the valley they would be able to divert the attention of the people from their failures while at the same time they would escape the responsibility for finding a solution of some social and economic problems peculiar to Jammu and Ladakh. These tactics, however, did not yield any positive results for them. As a matter of fact, in the primary elections to the National Conference candidates representing these leaders were defeated in large numbers and the then President of the National Conference felt obliged to suddenly postpone the elections. He attempted both as Prime Minister and the president of National Conference to eliminate one by one his opponents by arbitrary action. Not only this, he and his colleague Mr.M.A.Beg arraigned publicly the National Conference

Organization, his own Government, his colleagues and all those who stood firm by their faith in secular democracy and continued association with India. He even insinuated that the Constituent Assembly was not competent to take a decision on the state's future even though he held his official position on the mandate of this Assembly.

The serious deviation on the part of a responsible section of the leadership seemed to push the State towards anarchy and disaster. The majorities of the National Conference members, however, rallied round and were faced with the painful decision of expressing their lack of confidence in this section of the leadership. Three out of five members in the cabinet accordingly approached the Sader-I-Reyasat to place their viewpoints before him urging him to take appropriate measures immediately in the State's security and peace. The Sader-I-Riyasat advised Sheikh Mohammad Abdullah to resolve the differences with his cabinet Colleagues. But the later failed to take note of the seriousness of the situation and declined to call a meeting of his cabinet colleagues. It became evident the Sheikh Mohammad Abdullah and Mr. Beg were determined to force their way towards their objective by releasing forces of disruption and disintegration. In view of these circumstances, it became inevitable for the Sader-i-Riyasat to dissolve the Council of Ministers at the same time he called upon the leader of the majority group to form a new ministry. The state Legislature which met on October 5, 1953, passed a unanimous vote of confidence in the Prime Minister.

Besides, measures undertaken by the new Government to stabilize the political position, steps were taken to expedite the process of constitution making. Two committees were set up, namely, Fundamental Rights Committee and Drafting Committee to finalize the Drafting Constitution.

The Constituent Assembly met on February 6, 1954, and adopted the reports of the Basic Principles Committee and committee of Fundamental Rights thereby fulfilling one of the major tasks with which it has been charged. The ratification of the States accession to India was a logical culmination of the process of consolidation of Indo-Kashmir relationships. This decision was widely acclaimed in all parts of the State as banishing for all times to come the sense of uncertainty in regard to this vital decision. It ushered in a spell of economic prosperity throughout the State.

The recommendation of the Constituent Assembly were duly incorporated in the Indian Constitution by Presidential Order early in April, 1954, thereby enabling the State to share in full measure the assistance and corporation of the Government of India in the task of economic development. Now that the major tasks had been accomplished, the Drafting Constitution. The committee finally concluded its labours and presented the Draft Constitution to the Constituent Assembly on 29th September, 1956.

The draft is now before the Assembly for consideration. This makes the historic landmark in the history of the State and on this occasion it is worthwhile to remind ourselves of the sacrifices and struggle of the people of the State during the past two decades for the establishment of an order based on justice and equality, which this Constitution seeks to promote and preserve.

Monday, the 29th October, 1956/13th Katik, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, at Eleven O'clock.

Mr. President (Hon'ble G.M.Sadiq) in the Chair.

Mr. President: Hon'ble members, a few days back I stated in this House that some correspondence has taken place between Sheikh Mohammad Abdullah and me, I also promised that the Correspondence would be place before the House for information. Now today it will be placed on the table of the House.

Note: Copies of the Correspondence were distributed amongst the Hon'ble Members.

Mr.President: Today's business of the House will comprise discussion on Part I and part II(excluding clause I) which run as under:-

“2 (1) In this constitution unless the context otherwise requires:-

- (a) ‘Constitution of India’ means the Constitution of India as applicable in relation to this State;
- (b) ‘existing law’ means any law, ordinance, order, byelaw, rule, notification or regulation passed, made or issued before the commencement of this Constitution by the Legislature or other competent authority or person having power to pass, make or issue such law, ordinance order, bye-law, rule, notification or regulation;
- (c) ‘part’ means a part of this Constitution;
- (d) ‘Schedule’ means a schedule to this constitution; and
- (e) ‘taxation’ includes the imposition of any tax or impost, whether general or local or special, and ‘tax’ shell be construed accordingly.

2. Any reference in this connection to Acts or Laws of the State Legislature shall be construed as including a reference to an ordinance made by the Sadar-I-Riyasat.

3. The State of Jammu and Kashmir is and shall be an integral part of the Union of India.

4. The territory of the State shall comprise all the territories which on 15 August 1947. Were under the sovereignty or suzerainty of the ruler of the State.

5. The executive and legislative power of the state extends to all matters except those with respect to which parliament has power to make laws for the state under the provisions of the Constitution of India’.

The hon’ble members may now bring these parts under discussion.

Mr.Ghulam Mohammad Rajpuri : Mr. President, Sir, I want to make a few submissions about clause 3. of part II of the Constitution placed before the House for consideration today. This clause lays down that the State is the part of India and will remain as such in future. This clause reflects the desires and aspirations of the inhabitants of Kashmir, which they have expressed from time to time during their long struggle extended over the past 25 years. In this connection what we are doing today is based on the foundation laid in 1931. In 1931, the people of the state exercised their fundamental rights and raised their voice for the first time against the autocratic government. So we started a struggle in one part of the state and made sacrifices to achieve our chief rights, the right of self-determination, which is a sum total of innumerable small but important rights. In short, in 1931, our people expressed themselves un-mistakable against autocracy and demanded right of self-determinations. In this expression of opinion, the objectives which they favored, the things they accepted or rejected were made quite clear.

The people of Kashmir reached an important stage of their struggle in 1931 and marched along the highway of progress. In 1938, the people living

in the Jammu and Kashmir State reached a new turning point and at that time, they expressed themselves on some other aspect of the right of self-determination. The problem before the people was to make a choice between communalism and nationalism. So it was the second referendum for the people of the Jammu and Kashmir State and they choose nationalism and renounced communalism. The achievement of 1938 was added to that of 1931 and we marched on. In 1943, the people expressed their opinion with regard to the State administration and the system of production. So in 1943, the issues of the future State Administration system of production and questions pertaining to other aspects of life came up for their verdict. The result appeared before the nation in the form of an important document, which was named by us as “New Kashmir” Equipped, with these achievements of 1931, 1938 and 1943 we marched on.

In 1945, we reached a new stage and the people expressed their opinion on the treaty, which was humiliating to humankind. At that time, the people gave their opinion on this humiliating treaty and the nation arrived at a decision, which is known, to everybody. In order to uphold this decision the people did the lot. So many sacrifices were made and so many young people, men and women, laid down their lives that the story forms a golden chapter of history. Details of all such happenings are recorded in the pages of history. We entered into another stage with the output of our nations decisions in 1946. when our Country was divided into two parts, namely India and Pakistan. At that time the chief problem before us was as to what should we do? In other words at that time the chief problem, which confronted us was the protection of our valuable decisions and their development in future. So, when the greatest and most influential political party, namely the National Conference was considering this problem it had

to face real military aggression of Pakistan. Had Pakistan not invaded the State and had we been permitted to decide the issue after taking into consideration our movement and our past tradition, even then the great factor that could have guided us concerning accession would have been the problem of protection and development of the important decisions taken by us during the lifetime of our movement. Then another factor came into operation and a strange situation confronted us. We realised that the Pakistan was against our right of self-determination and flatly refused to give us that right. That country used military force and provided a proof of her enmity towards us by trying to enslave us. The way in which they treated our Mujahids is known to everybody. Nails were struck to mujahid sherwani's body and Molvi Abdul Aziz was hacked to pieces. These persons who had made invaluable sacrifices for the achievement of the right of self-determination and independence for the Kashmiris, were killed mercilessly. On the contrary, those who had played traitors to the Kashmiri nation were offered high offices in Pakistan. Those who tried to weaken the movement by supporting autocracy and disregarding the sacred right of the people for existence. Were offered seats of power and high posts in the area which was grabbed by Pakistan by using force. We see that persons who acted as traitors

in respect of the national movement of the kashmiris are offered high seats. We see that Moulvi Yousuf Shah who got a cash jagir by declaring that Maharaja Hari Singh was the shadow of God has been made the Head of the State in the area while persons, who had dedicated their lives for the furtherance of the movement and for bringing prosperity to the life of the people, were slaughtered. This was the grave situation that confronted us. Leaving this aside, when we consider the problem of accession, in the

context of the present circumstances we have three different courses upon to us.

In the present circumstances, we can either let our country remain independent or accede to Pakistan or to the Indian Union. As far as the problem of independence is concerned, it becomes incumbent on us that we should, take into consideration the special geographical position. The backwardness and the limited resources of our country, think as to how we can further our ideals which we have set forth in the form of “New Kashmir” how we can implement our development plans, how we can protect our borders extending to thousands of miles, how we can put into practice our major plants and how we can bore a tunnel through the Banihal hill. In view of these considerations our geographical position, the protection of our thousands miles long borders, our backwardness, the reconstruction of our national life in accordance with the programme of “New Kashmir” the alternative of independence will not be acceptable to us.

The second alternative before us is to accede to Pakistan. At this point, it becomes incumbent on us to analyse and examine the Pakistan Government and the foundations on which it rests. The foundation of Pakistan has been laid on communalism but the people of Kashmir took a decision in this regard as early as 1938 and rejected it outright. Besides, when we have a look on the productive system and the state structure of Pakistan, it appears that Jagirdari system and autocracy do not exist but are being strengthened there. In this way, the productive system and the State structure which we aspire to build and which inspire us to march forward are quite different from those existing in Pakistan. We also know that our people have declared themselves to be against such a setup. The attitude of the ruling circles of Pakistan towards our people is by no means a secret, which

is hidden from the general looks. It is known to everybody that parts of our state under Pakistan occupation have been converted into health resorts for her Nawabs. We ask as to what has been done by Pakistan in connection with the rebuilding of its productive and state systems. We also ask if anything has been done for setting up a democratic system of government in its territories. People who betrayed the freedom movement of the masses, people who did not find any shelter in the state, were collected and installed into power. After studying this picture we are obliged to say that whatever we have achieved through hard struggles and great sacrifices since 1931 cannot be maintained and developed under the tutelage of the Pakistan rulers.

Mr. President: Hon'ble Member is required to take into consideration the element of time also. He can speak for ten minutes more.

Mr. Ghulam Mohd Rajpori:- Sir, considering the question of accession we are faced with an alternative that of accession to Pakistan. But since it is not consistent with our ideals. We are obliged to reject this solution in face of our sacred traditions. Then there remains the only solution in face of our sacred traditions. Then there remains only one solution to accession to the Indian Union. Our ideals are not only similar to those of India; our affinity is enlarged by the impetus that our movement gets there. No one can forget the fact that Mr. Nehra offered himself for arrest in the Quit Kashmir Movement. That is not all India has done for us. Gandhi Ji himself visited this state in order to infuse a new life into the dying movement and helped the people here. On the contrary, Mr Jinnah, the founder of Pakistan, accused the youthful leaders of this movement of 'gundagardi'.

We find that the very basis of economic life in India is undergoing a change through the implementation of development plans, and this in turn

will change the way of thinking of the people. It is a proof of the fact that communalism is dying in the Indian Union. In view of these circumstances, there remains only one alternative for us and, therefore, the question of plebiscite does not arise. If there is only one door of a house for entry, how can one select any other entrance?

During the last days, my friend, Mr. Beg, said something on the subject. I am at a loss to understand whether Mr. Beg. Who is talking on the subject today, is representing the same Mr. Beg. Who expressed his sentiments and opinions in 1938 and again in 1943 in connection with “New Kashmir”

Note: The time bell rang.

Mr. President: The Hon’ble Member may please conclude his speech now.

***Mr. Ghulam Moh’d. Rajpuri :** Sir, he made an attempt to separate the right of self-determination from historical facts and other events in a quite strange way. He emphatically pleaded that there should be a plebiscite in regard to accession. In this connection, I want to know whether he said this wholeheartedly. I believe that he has lost faith in democracy. I would request Mr. Beg and other friends who are bent upon deviating from the principles of “New Kashmir”, to plainly admit that they have forsaken democracy and democratic principles, that they no longer believe in reforms and principles of “New Kashmir”, that deny the sacred sacrifices made by the martyrs, and that they repudiate all those things that make up the right of self-determination. They do not want to see our national life reconstructed. They in fact want to deceive the people by espousing communalism. They are not inspired by the political and democratic character of the movement any more. I conclude my speech with these submissions.

Mr.Ghulam Rasul Renzu: Sir, in view of limited time placed at my disposal for the purpose, I am at a loss to understand as to what I should say and what I should not. I would like to invite the attention of the House to a specific problem, and to state something concerning clause 4 of the Draft constitution. Clause 4 reads:-

“The territory of the state shall comprise all the territories which on the fifteenth day of August, 1947, were under sovereignty or suzerainty of the Ruler of the State”.

The substance of this clause is that the boundaries of the Jammu and Kashmir State will be the same as were under the Ruler of the State in 1947, and that the illaqs which were under the sovereignty of the then Ruler of the State or under his suzerainty would continue to form parts of the State. Sir, aim of the Drafting Committee while drafting this clause was to safeguard the unity and integrity of the state. But, unfortunately a part of our state Passed into the hands of Pakistan as a consequences of Pakistani raids in 1947. When we began to implement, our programme of “New Kashmir” we did not forget our brethren living on the other side of the cease-fire-line. As Mr. Rajpuri while explaining clause, 3 of the Draft Constitution said we have declared through this clause that the State will be an integral part of the Indian Union. In the same way, when we drafted clause 4 we wanted to declare and I hope I have full support of the House when I say it that the territories forcibly occupied by Pakistan were integral parts of State and that this clause applied in case of these illaqs.

Sir, when we study the conditions prevailing in these illaqs, we are greatly disappointed. The people there are in a miserable condition. The constitution that we are giving to the people of our State entitles us to elect our Head of the State or Sader-I-Riyasat. If the Sader-i-Riyasat violates any

of the provisions of the Constitution, we have the right to impeach him. On the other hand, when we look at the illaqa lying on the other side of the cease-fire line under Pakistan occupation, we see that the question of electing the Head of the State does not arise at all there. By this time, six different Heads of the State have been imposed on that illaqa and the nomination of such a Head of the State is made by the President of Pakistan. Sir, we have established a parliamentary system of Government in the State and there is an Assembly consisting of the elected representatives Government, not to speak of an Assembly. The Sadar of the illaqa is nominated and is not answerable to anybody. The Government of Pakistan can turn him out at will.

Sir, there is not sufficient time at my disposal to place before the House in detail the miserable plight of the people living there and how several Governments were formed and dissolve. We abolished the Jagirdari system and distributed land among the tillers without any compensation. But in the Pakistan-held illaqa the tottering Jagirdari was revived by the rulers of Pakistan. At this occasion I am reminded of an incident from the life of the late Mirza Ghalib. He had been imprisoned by the English for sometime. When he was released, he came to live in a hut with a dervish named Kaley Khan in the suburbs of Delhi. After sometime, one of his friends came and asked him what he was doing there. Mirza replied that previously he was under the imprisonment of the whites (the English) and then under that of the black meaning thereby Kaley Khan. The same is the condition of brethren living across the cease-fire-line. After freeing themselves from the slavery of the English, they have now fallen under the yoke of the black people. All the powers there are in the hands of the Nawabs and Jagirdars. On the contrary, we enjoy internal autonomy and are giving our people a

glorious Constitution. We assure our brethren living in the enemy occupied areas that the time is fast approaching when they will join us and that not an inch of the State will be allowed to remain under the possession of Pakistan and that this Constitution will apply to that illaqa as well. I shall not, however, go into the details in this connection.

Sir, I have to invite the attention of the House to a particular problem. Our friends some of whom are at present in Pakistan and some in the State have stated it often that certain parts of the state especially Swat, Hunza, Nagar and Chitral did not form parts of the State and were directly under the British Govt. But it not based on facts. It is quite evident that Hunza, Swat ,Nagar and Chatral principalities were part of the State and will remain as such in the future also. We are confident that these Illaqas will be resorted to the state sooner are later. If our friends now feel prompted to say that Gilgit, Hunza, and Nagar formed a part of the State, they are only expressing their fear that Pakistan cannot perpetuate the occupation of these Illaqas. Those of our friends who argue that these illaqas were never included in our state exhibit their ignorance on the subject. In the first instance, I shall say something concerning Gilgit. These Illaqas has formed a part of the State not only since recent times but, as is evident from the pages of the history, it has been a part of the State right from 1842. In 1842, Kashmir was under the position of the Lahore Durbar i.e. the Sikhs and they ruled over Gilgit also. When we go through the history, we learn that petty Nawabs who ruled over these principalities were constantly at war with one another. At this time Karim Khan the Nawab of Gilgit approached Sheikh Ghulam Mohi-ud-Din, the Governor of Kashmir under the Sheikh, and requested him for help so that he might subdue his enemies there. Thereupon, the said Governor of Kashmir sent his forces to Gilgit under the command of Mathra Dass and

Nathu Ram. In this way Karim Khan came to power there. we find right from that Gilgit has formed a part of this State. At that time, Nathu Shah was appointed to represent the Sikh there. He then got married and his children too did the same. Then in 1846 the treaty of Amritsar was executed whereunder the illaqa of Gilgit was transferred to Maharaja Ghulab Singh who had been acknowledged as the ruler of this State. With your permission, Sir, I shall read out that treaty which shows that the illaqa of Gilgit was transferred to Maharaja Ghulab Singh. the treaty reads:-

“under the terms of this treaty, the British Government transferred and made over for ever, an independent possession of Maharaja Ghulab Singh and the heirs male of his body of the hilly or mountainous country with its dependencies situated to the eastward of the river Indus and westward of the river Ravi, including chamba and excluding Lahore, being part of the territories acceded to the British Government by the Lahore State.”

The Sikhs had conquered Gilgit itself in 1842-43. this suzerainty passed on to Ghulab Singh with Gilgit itself.

Sir, under these clear terms the illaqa of Gilgit was made over to Maharaja Ghulab Singh. But after sometime a rebellion broke out in that territory which produced a state of chaos. So during the reign of Maharaja Ranbir Singh an army was sent from the state to that illaqa which crushed the rebellion consequently chief of that illaqa accepted the suzerainty of this state.

In 1870, a treaty was executed in regard to Hunza, where under the Ruler of Hunza also accepted the suzerainty of the Maharaja of Kashmir and agreed to pay the tribute. I read the treaty with the permission of the House.

Whereas my Raja Gazanfar Khan deceased remained under the control of the Kashmir Government for a long time especially the deceased Raja was obedient and present tribute in the same manner hence. I of my own accord without force of pressure depute my motabar Wazir Fazal Khan and accept the following terms”.

After this the terms where under the Raja accepted the suzerainty of the Maharaja of Kashmir and agreed to pay a tribute appear in the treaty. Thereafter the world situation changed. Two imperialisms, namely British imperialism and Russian imperialism began to spread their tentacles. The imperialism of the czar was threatening the state of Hunza. It was a danger that could not be tolerated by the English. When they saw it spreading in Asia they wanted to make it sure that it did not endanger their empire in India. Besides this, the Indians appeared to be favorable inclined towards the Czar and it was feared the Russian forces might invade India. Sin in 1877, the English appointed their Agent for Gilgit with concurrence of the Maharaja of Kashmir, so that inform the British Government accordingly. Thus, it is clear that the British did not send their Agent on their own but with the concurrence of the Maharaja of Kashmir. With your permission, sir I shall read out the letter which was written by the British Government to the Maharaja of this State in this connection. This letter proves that the British Government requested the Maharaja to permit them to send their Agent to Gilgit. The appointment of a British Agent did not mean that the illaqa was politically cut off from the State. The Agency was created for purposes of intelligence so that the British remained informed about the conditions obtaining there. The Agency continued to function form 1877 to 1881. the letter seeking permission for establishing the agency reads:-

“Captain John Biddulph who is well known to your Highness has been deputed on special duty to Gilgit with your Highness, consent and concurrence. It would be kind of your Highness if the appointment of this officer in Gilgit and other posts subsidiary to your Highness is also notified in the manner your Highness deems proper...”

As regards the duties which this officer had to perform, the instructions issued to him stated as follows:-

“The duty you have been specially deputed for is that your will, with the concurrence of His Highness and his officials, make all possible endeavors to collect and to enable the British Government to obtain early and authentic information of the course of events in the adjacent country the frontier districts of Kashmir and submit an account of the place, the capacity of neighboring localities, with connected particulars. In consultation with the Officers of the State, you will make every effort to establish friendly relations with the communities of the frontier so that you will gradually bring them under the control and suzerainty of Kashmir Government. But you will in no case interfere in the Government and administration of the territories in the jurisdiction of His Highness.... It in case of any hostility on the part of any community in the neighborhood it is considered necessary and advisable to move the State forces across the frontier you are authorized to march with that forces and to help and guide the commandant of the force with your advice and experience”.

This Agent was sent to Gilgit with the instructions that in case of necessity he could use State forces also. At that time there was no indication to the effect that illaqa of Gilgit was separate from Kashmir. After this the situation in Afghanistan changed and Shah Shuja who had the support of the

English to some extent came into power, and the Gilgit Agency was for the first time abolished in 1881.

Then during the reign of Maharaja Pratap Singh the circumstances changed once again as the Czar was attempting to extend the boundaries of his empire in Central Asia. So, the English were alarmed lest Russia should gain power in the north of their kingdom. In view of this consideration, they did not allow the suzerainty of Maharaja Partap Singh to extend any further. They tried to interfere in the administration of the State. Accordingly, in 1885 an Englishman with the designation of Officer on special Duty was deputed here with the instructions to aid the Maharaja in avoiding any conflicts between the visitors and the inhabitants of the State. But late on in 1888 the Office was called Resident.

In 1889, the English attributed to certain fictitious letters to the Maharaja and alleged that he had been carrying on correspondence with the Czar. Subsequently the Government of the State was suspended and a Council was appointed instead. However, I don't want to discuss the details of the Council as it forms a separate issue. Thereafter, the English took the whole administration of this State in their hands, and the State forces were put under the charge of British Officers. In 1889, Gilgit Agency was set up and a separate army, called Imperial service Troops was recruited. With the help, these troops the Agency maintained its administration. But I would like to point out here that even at that time the internal Government of illaqa was carried on in the name of the Maharaja. It can be verified from the historical documents that the Government of the entire illaqa was know as the Maharaja's Government.

The events took yet another turn and all the powers were once again transferred to the Maharaja in 1921. the Maharaja again raised the question

of Gilgit Agency and pressed the matter hard Meanwhile in 1931,our freedom movement took its birth and the English realized that the movement was so rapidly gaining strength that one day it would be impossible for them to suppress it. Accordingly in 1935 they took this illaqa on lease on this clear understanding that it would be treated as Maharaja's territory to be returned to him after 60 years. On 15th August 1947, when the English freed the country, this illaqa legally and constitutionally had to return to the Maharaja of Kashmir. In this way, our contention that this illaqa should be returned to Kashmir is not based on any supposition but on solid international law.

Mr. President: I would like to know as to how much time is the Hon'ble Member going to take. There will be only one sitting today.

***Mr. Ghulam Rasul Ranzu:** since the time at my disposal is very short, I will confine my speech to a few things only. Regarding Chitral I would like to say that it has remained a part of Kashmir. I shall only read out the treaty where under the suzerainty of the Maharaja of Kashmir over Chitral was recognized. the treaty reads:

“with the sincerity of purpose and cordiality of will I Aman-ul-Mulk, do hereby execute this deed on my part and on the part of my children, consisting of the following articles:-

Article 1. “I engage that I will always sincerely endeavor to obey and execute the orders of His Highness' the Maharaja the Wali of Jammu and Kashmir, that I will overtly and covertly consider His highness well-wishers and friends as my friends, and enemies of his government as my enemies that I will present the following Nazrana to His Highness annually as an acknowledgement of his par-amount power: -

Three horses.

Five hawks.

Five tazi dogs (hounds).

Sir, this is the treaty which was concluded concerning Chitral and which is valid even today. I have had to dwell on this subject because some of our friends argue that Hunza, Nagar and Gilgit etc. never formed a part of the State but were under the suzerainty of the English. We are prepared to prove it in any council of the world that this territory has remained a part of the state and will remain as such in future too. If our Pakistani friends are claiming this territory, it is because they have set up their military bases in Gilgit. But on behalf of this House I assure my brethren who have been separated from us that we will never allow this area to be turned into military bases of any foreign power. So long as we live, we continue our fight to take back every inch of our territory occupied forcibly by Pakistan. I appeal to the people living in that territory to raise their voice against the rulers of Pakistan, who want to turn their homeland into a hell. We Pledge our strength and good wish to them. God willing, the time is not far off when they will be with us and this Constitution will apply to that part of the State also.

Mr. Mohd. Ayub khan: Sir, today parts I and II of the Draft Constitution are being considered. My Hon'ble, friends have already expressed their view on two out of the three important clauses under these parts. I want to express my views on clause 5. This clause reads as under: -

“The executive and Legislative power of the State extends to all matters except those with respect to which Parliament has power to make laws for the State under the Provisions of Constitution of India”.

I would invite the attention of the Hon'ble Members to a noteworthy point in this clause: residuary powers of the state have been retained by the

State, whereas in the case of other Indian States such powers rest with the centre. This has been possible because the position of our state is quite different. Here the sovereignty which rested with the Maharaja was transferred to the people. Thus enabling them to set up a Constituent Assembly to frame the Constitution of the State. Naturally, therefore, the sovereignty rests with this House. Consequently, this House dedicated as to what subjects will remain with the Centre. The rest of the Subjects have been retained by the State.

Some communal organizations are opposing the adoption of a separate Constitution for the State and are expressing communal sentiments. They say that the State has been given a special position simply because the Muslims are in majority here. but we have time and again made it clear that no such communal considerations were in view while making this provision. We have already stated and want to re-affirm that the reasons for providing for the special position of the State are simply economic ones. Moreover, this special position will enable us to fulfill our promises we have made to the people during our freedom struggle. These are the grounds why we want to maintain internal autonomy.

In 1944, we laid before the people of the State an economic and political programme the programme of “New Kashmir”. In it we drew up a plan of a social and economic system based on justice and equality. We feel that in order to put into practice this programme we should have special privileges and the Legislature of the State should be vested with special powers. A plan for the economic setup of the State has been provided for in clause 14 of the Draft Constitution. To materialize our objectives we have made a provision to foster and protect:-

“a) The public sector where the means of production are owned by the State;

b) The cooperative sector where the means of production are cooperatively owned by individuals or groups of individuals; and

c) The private sector where the means of production are owned by the individual or a cooperation employing labour;

Provided that the operation of this sector is not allowed to result in the concentration of wealth or of the means of production to common detriment”.

We aim at doing a way with exploitation, whether it is economic or social. To achieve this and we should have a free hand, so far as our internal economic setup is concerned, it has undergone a change Land has been transferred to the tillers without payment of any compensation in consequence of which our agrarian relations have also changed. As Such it is necessary for us to independently consider the legislation relating to land. Similarly, our labour laws should be according to our environments. Likewise, we should ourselves formulate and execute policies in regard to agriculture and co-operatives. It is for these reasons that we want a special position for the State. Those who argue that this is a tendency towards separatism are mistaken. Cordial relations based on a union of hearts are stronger than formal or constitutional accession. However, this was the only course which we could follow. Events have proved that the course adopted by us is quite right, and that our good lies in acceding in India. There was another way also open to us but my friends who expressed their views earlier have already described the condition obtaining in the territory which is under the forcible occupation of Pakistan. The people coming from the enemy occupied areas have been relating harrowing tails about the miserable plight

of people living in those areas. But we have saved our people from being victims to such a fate. It is an out dated plea that Government should be formed on religious basis. Today, a democratic system of government cannot last long unless it is formed on secular basis. The foundation of the State of India is laid on justice, liberty, equality and fraternity. We have been observing that communalism is fast dying away in India and her people do not now believe in cheap communal slogans. They now follow the people who lead them on the path of economic prosperity. In India, today all the communal organizations have either died away or are breathing their last. Five years back people used to say that Hindu communalism was being patronized in Jammu, but now the population of that Province has given it a death blow. The result of the Municipal elections have also proved that communalism has been buried very deep. Some communal Organizations had decided to protest against these elections, but the people did not co-operate with them in their move, for they have a high level of consciousness and cannot be carried away by communal slogans. It is not only in Jammu but in Srinagar also that the National Conference achieved great success in the Municipal elections.

The people of the State did not respond to the slogans of Independent Kashmir which was raised here. This was due to the fact that the people had consciously awakened. If God forbid, the slogan had assumed a practical shape, the integrity of the State, for which the people made so many sacrifices, would have been disrupted. Today, some quarters misrepresent the facts and demand that a plebiscite should be held in the State. In this connection it may be submitted that India has agreed to the holding of a plebiscite which meant that the will of the people would be ascertained. But the manner, which they proposed for eliciting people's opinion i.e. the

plebiscite, is a crude one. This House, which was set up for ascertaining the will of people, has already done its job. Those who advocate for plebiscite today, and aware of the dangers under laying this slogan. They know that no Wiseman with the exception of a few enemies, who aim at disrupting the integrity of this State, can accept it. If, however, this slogan materializes Kashmir will be separated from Jammu and Ladakh from Kashmir and the Illaqs that will suffer worst or Poonch and Doda. But our people are now conscious and are alive to the situation. They understand that raising of such a slogan is a conspiracy hatched by those people who want to turn our State into a base for imperialist intrigues.

Sir, by adopting this Draft Constitution there will be no chance for the enemies of the State to create dissatisfaction amongst the people. This constitution will avert that danger. We want to maintain the atmosphere created after 1953, an atmosphere in which we will be able to maintain our freedom and make progress. In order to give a practical shape to the promises we have held to the people for the last so many years, we want to draw a picture of our internal consolidation under this constitution. We have never aimed at maintaining our individual positions. We have achieved freedom as a result of the hard struggle of the people and we want to utilize it only for their good. However, we are marching ahead and the whole world will bear testimony to our honesty and to fact that the promises we had made to our people are being fulfilled one by one. The right of self-determination in this way will be an instrument in our hands to be used for the good and development of our State.

With these words I express my agreement with clause 5 and other clauses of the Draft Constitution considered today.

My.Krishan Dev Sethi: Sir, Mr.Ayub Khan has expressed his views in regard to clause 5 of the Constitution. I also want to say something about it. In fact, this is the clause which enunciates our political beliefs and to which several opposition parties of the State are voicing their opposition. The National Conference has always upheld the principal of self-determination while other political parts of the State Have never objected to the exercise of sovereignty by an individual. It was in pursuance of this very principle that the National Conference in its Sopore session declared that sovereignty belongs to the people and not to the individuals. The principle was also the source from which the slogan of Quit Kashmir Originated and clauses embodied it in the Constitution.

At the time when India achieved Independence, all power was transferred to the people in British India. But reactionary forces did not like such a development. In the same way, the rural of Jammu and Kashmir was adverse power and sovereignty being transferred to the people. The National Conference at his stage demanded that the sovereignty must be transferred to the people, but savage repression was let lose to stifle the voice of the democratic movement. The autocratic Govt. wanted to deprive the people of their rights of self-determination. Other Political parties like Hindu Mahasaba and Muslim Conference joined hands with the ruling party. The Leaders, of the Muslim Conference, did not hastate from in working the Quranic commands to the faithful to obey the rural of the time. We remember what parties in India supported us in our struggle. Pandit Nehru, the greatest living Indian, supported us and so did the Congress, the Communist Party and the socialist party. The well known communist leader of England Mr. Rajani Palme Datt, and the leaders of the socialist Party like Mr. Jai Prakash Narine and Mrs. Asif Ali lent their support to our cause

Pt.Nehru came to the State offered himself for arrest. On the contrary, Mr.Jinnah the founder of Pakistan, opposed our struggle tooth and nail and urged the English to transfer sovereignty to the rulers of this States, after they left India. After the division of the Country into India and Pakistan the imperialists conspired to turn Haderabad and Kashmir into independent states, so that they could lead behind bases for their war designs. The Maharaja of this State also dreamed of becoming independent and parties like Praja Parishad, was claims to stand for accession to India and the application of the Indian Constitution to the State in toto came out in open support of his plan. It was in view of this plan that the Maharaja of Kashmir wanted to enter into standstill agreements with India and Pakistan. While Pakistan executed such an agreement with the Maharaja the party in power in India declined to do so as long as the people of the state were not a party to it. They made it clear that such right belonged to the people and not to rural. These very principles were kept in view by the leaders of India while incorporating Hyderabad and Junagarh in the Indian Union.

Sir, Mr. Beg tried to present the issue in an incorrect way. The Instrument of Accession was not only signed by the Maharaja also by the representatives of the people, the members of the National Conference working committee. The Indian Union did not accept accession of the State to India as executed by an individual but recognized the right of self-determination of the people through incorporating Article 370 in the Constitution. It is thus clear that people's sovereignty and right of self-determination received due recognition at the hands of the Indian Union.

The present Constituent Assembly was convened. It did away with the autocracy and a decision to accede to India was also taken by it. In accordance with the provisions of Indian Constitution the people of Jammu

and Kashmir, exercising their right of self-determination acceded to India. In fact, clause 5 of the Draft Constitution rectifies the provisos of the instrument of Accession and the Delhi Agreement. The Constituent Assembly has transferred such powers to the Government of India, as it deemed necessary, retaining residuary powers. Our relationship with India developed through the Delhi and other agree elements is being opposed by a certain element in Kashmir for other reasons than those put forth by their counterparts in Jammu who oppose it on the grounds that the Supreme authority should not be transferred to the people but should vest in one individual. But such arguments are obviously based on un-democratic conceptions Clause 5 is in fact a guarantee for all our aspirations expressed all along in our national movement. However, the people opposed to our policies are decidedly not in a majority and their number is negligible. As overwhelming majority of the people is with us and it has been amply demonstrated to the world by the recent Municipal elections. As stated by Mr. Mohammad Ayub, the communalism, were defeated y the National Conference in the Jammu Municipal elections despite the fact that Muslim candidates were returned from constituencies where Hindu were in majority and Sikhs were returned by Muslim majority constituencies. Likewise, in the Municipal elections at Srinagar the National Conference achieved great success. The same was the case in Town Area Committee elections. In the Jammu Province out of 18 Town Area Committee elections, the National Conference won a majority of seats in 15 Committees. The result of the Panchayat elections revealed similar success for the National conference. And if now Mr. Beg has pointed out that the Praja Parished is strongly entrenched in Jammu would he be able to tell us how it was defeated during the Municipal elections? Similarly, why could not that party attain a

majority and was defeated in Town Area Elections? In this connection, I would like to point it out to Mr. Beg that the Praja Parishad is a representative party of Jammu in the same way as he and a handful of his associates claim to represent Kashmir.

The colours in which Mr. Beg has presented the Praja Parishad do not portray the reality as it is. The Praja Parishad has never demanded the establishment of regional councils. They simply object as to why there should be a separate Constitution for the State. The Praja Parishad has no other political stand and it fought the elections simply with the same slogan that there should not be a separate Constitution for the State of Jammu and Kashmir. They did not, however, carry any conviction with the people and the way in which they were defeated is known to everybody, similarly, in Kashmir candidates were put up in the name of the Plebiscite front but they could not achieve any success.

Sir, clause 5 which embodies the aspirations of the people of Jammu and Kashmir and represent the gains of the Quit Kashmir Movement and the spirit of the resolution of the right of self-determination passed in the Sopore session of the National conference, is the result of the sacrifices made by our martyrs. Today opposition to clause 5 means opposition to a reality. Its opposition is nothing short of opposing the accession to India. In fact, as far as clause 5 is concerned, its opposition amounts to opposition of the Indian Constitution. All these things are against accession to India and against the right of self-determination. The elections of Town Area Committees, Panchayats and Municipalities have proved that the people of this State are in favour of right of self-determination and accession to India.

With these words, I conclude my speech.

Mr. President:- Now I put clause 2 of Part I which reads:-

- “2. (1) In this Constitution unless the context otherwise requires:-
- (a) “Constitution of India” means the Constitution of India as applicable in relation to this State.
 - (b) “Existing Law” means law, ordinance, order , bye-law, rule, notification or regulation passed, made or issued before the commencement of this Constitution by the Legislature or other competent authority or person having power to pass, make or issue such law, ordinance, order, bye-law, rule, notification or regulations;
 - (c) “Part” means a Part of this Constitution;
 - (d) “Schedule” means a schedule to this Constitution; and
 - (e) “Taxation” includes the imposition of any tax or impost whether general or local or special, and ‘tax’ shall be construed accordingly.
- (2) Any reference in this Constitution to Acts or laws of the Sate Legislature shall be construed as including a reference to an Ordinance made by the Sadar-e-Riyasat”.

The question is: “That clause 2 stands part of the Constitution”.

Note: The motion was adopted unanimously.

Mr. President: Part II clause 3.

The question is: “That clause 3, namely:-

“The State of Jammu and Kashmir is and shall be an integral part of the Union of India, stand part of the Constitution”.

Note: The motion was adopted.

Mr. President: The question is: That clause 5, namely:-

“ The executive and legislative power of the State extends to all matters except those with respect to which Parliament has power to make

laws for the State under the provisions of the Constitution of India', stand part of the Constitution".

Note: The motion was adopted.

Mr. President: With this today's business come to an end. We shall meet here again tomorrow.

Note:- The House then adjourned till eleven O' clock on Tuesday, the 30th October, 1956.

Tuesday, the 30th October, 1956/14th Katik, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar at Eleven O' Clock.

Mr. President: (Hon'ble G.M.Sadiq) in the Chair.

Mr. President: The discussion today will pertain to the clauses included in Part III. These clauses read as under:-

Note: The Hon'ble President read out to the House clauses Nos. 1 to 10 (both inclusive) under Part III-Permanent Residents.

Mr. President: There are sine amendments also with regard to these clauses. The first amendment stands against the name of Mrs. Isher Devi Maini.

***Mrs. Ishar Devi Maini:** Sir, I do not want to move my amendment.

Mr. President: Second amendment stands against the name of Mr. Mansukh Rai.

Note: Mr. Mansukh Rai was absent and the amendment was not moved.

Mr. President: Mr. Bhagat Ram Sharma.

***Mr. Bhagat Ram Sharma:** Sir, I also do not want to move my amendment.

Mr. President: Now any Hon'ble member who wants to speak on these clauses can express his views.

***Sardar Kulbir Singh:** Sir, I want to submit a few words in support of the clauses of the Draft Constitution that are at present under discussion in the House. A clear picture of the aspirations of the people of our State has emerged out of the discussion held so far on the Draft Constitution. It goes without saying that our people want to have such a Constitution which will help them to implement their developmental programmes and remove the hurdles which would otherwise come in the way of their progress.

Two points clearly emerge from these clauses. Firstly, all requisite safeguards have been kept in view while defining the permanent residents. Secondly, a permanent resident of the State will have all such rights as are enjoyed by the citizens of India. When we go into the details of these points, we find that these are very important for the people of the State. It needs hardly to be stated that all these points were already adopted in accordance with the report of the Basic Principles Committee. And today, we make these sections a permanent part of our Constitution.

As you all know when for the first time the State Subject of our State was defined, it was done because of a particular background. The rights of the State Subjects had to be protected and consequently such step was taken. As is obvious the Draft Constitution ensures all such measures adopted so far for protecting the interests of the State Subjects. All the categories of the State Subjects, have been preserved in the Constitution Besides, we have provided one more condition i.e., any person who acquired property lawfully after 1954 on obtaining proper permission and has been residing continuously in the State for the last ten years, can also be declared to be a permanent resident. So when we find the words “lawfully acquired property” appearing after the definition of State Subjects class I and class II it becomes very explicit.

All the requisite rights have been conferred on the people of the State to enable them to build the economy of their State in accordance with their wishes. The people of the State have transferred such powers to the Centre as will enable them to go ahead in their race for progress. Similarly, for the same residuary powers have been retained by our State. So not only have we maintained our autonomy but have also created such conditions as will help us to fulfil the cherished aspirations of our national movement. The

Parliament of India has accepted our right to protect the interest of our State Subjects with regard to services or trade etc.

Sir, without going into the details of the sections already adopted by this House, I would like to remind my countrymen that we are today securing for them through this Constitution all the rights of the citizenship for which they had been all along fighting. It reminds us of that period of our history when the people of our State were struggling along with their brethren in India for their democratic rights. Today, the aspirations of the people of the State have been fulfilled.

Sir, the rights enjoyed by the citizens of India by virtue of section 10 of the Constitution on India will equally be enjoyed the citizens of the State also. The people of the State waged a heroic struggle for a long time of their freedom and this Constitution embodies all that they were fighting for. Whatever Government comes into power in this State, it will have to protect properly these fundamental rights of the State's people. A special section has been provided for in this Constitution and this relates to persons who during the disturbances of 1947 had left the State. It has been provided for in the Draft Constitution that whenever these people return to the State, they will be entitled to all such rights as will be enjoyed by the rest of the citizens of the State.

With these words, Sir, I completely associate myself with the rest of the Hon'ble members in supporting all the sections of the Constitution, since it opens such avenues for us as will help us to march ahead.

***Mr.Ghulam Nabi Lolabi:** Sir, I would like to request the members of the House to give their full attention to this section of the Constitution in view of its importance.

It needs to be mentioned here that we have not been motivated by any communal or sectarian consideration in providing for this section in the Draft Constitution. It is because of the peculiar economic conditions prevailing in our State that such a section had to be provided for.

Sir, suffice is to say that during the autocratic regime more rigorous provisions were prevalent in the State with regard to State and non-State Subjects. During the deliberations of the Constituent Assembly the backwardness of the people was kept in view when such sections were provided for in the Draft Constitution.

Sir, it goes without saying our State is economically and educationally backward. It, therefore, devolves upon us to adopt such measures as will safeguard the interests of our people against any competition. Naturally, such measures will exist only for that period till our people catch up with other parts of the country in their race for progress. Fortunately, our State has an ideal climate and has many an attractive health resorts; there is every apprehension lest rich people from outside take such steps as would retard the progress of our common folk. The people of our State have to depend on other States for many necessities of life. We are deficit in food. Our Industrial output is meagre. It is obvious we cannot at this stage of our development compete with other provinces. Unless we make good this backwardness we will have to safeguard the rights of our State Subjects. It is true the communal elements both Hindu and Muslim will interpret this section to suit their propaganda but that should not deter us from perusing a policy which we think is correct. Muslim communalists say that formally there used to be three categories of State Subjects. The first class State Subject could purchase land etc. and could secure Government jobs. While the last two categories of State Subjects were not entitled to these rights.

Now they complain that all the three classes have been given equal rights. Hindu communalists raise similar objections. But when we study section 10 carefully, we find that the State Legislature is empowered, if it finds it advisable, to make amendments in this section. If someone creates vested interests at the cost of people interests, our Legislature is empowered to adopt necessary measures to deprive him from doing so.

Sir, under these circumstances the hue and cry raised by disgruntled communal elements loose its string. Whatever opposition comes to our Constitution making, be it from Mr. Beg or from other sources is obviously motivated by ulterior designs.

It is really painful to note that our erstwhile leader, who was instrumental in convening this Constituent Assembly, today challenges its competence to frame the Constitution. It is ridiculous on his part to do so since he has lost the confidence of the overwhelming majority of the members of the House. The House threw his leadership overboard as he deviated from our chosen path. Let me remind him that it was because he was elected as the leaver of this House that he became Prime Minister of the State. If he is true to his declaration, he should refund lacs of rupees which he received as salary etc.

The future historians will surely describe his antics in deserving language. He should try to remember all those agreements which he entered into with the Government of India, before he indulges in such a talk. The fact remains that it was in keeping with the needs and desires of the people that he entered into various agreements with the Government of India. But later he changed his attitude and thereby lost the confidence of the people.

Sir, if I am permitted, I will quote the statement made by Mr. S.M.Abdullah on 25th of March, 1952. I would not have quoted his statement

but I am prompted to do so in view of his letters addressed to the Hon'ble President. He had remarked in his statement that this House symbolized the aspirations of the people, but it is strange that today he refuses to accept the decision of this House. He does it because he no longer continues to be the Prime Minister of the State. Since the people of the State have thrown his leadership overboard, he, therefore, challenges the decision of this House. It only betrays his defeatist mentality.

Sir, when I take into consideration the attitude that Mr. Hamdani adopted by affixing his signatures on Mr. Beg's statement in boycotting the proceedings of the House and the attitude he adopted in his statement made during the debates on the report of the fundamental rights Committee in 1954. It becomes ridiculous. At that time he had said that the House only contained the work which was entrusted to it. And that the people of Kashmir could build "New Kashmir" is secular India alone. This statement of Mr. Hamdani consists of about seven pages. But today he denies all what he had said in the past and decides to boycott the Assembly. He maintains that this Assembly is not competent to take any decision. If I am not committing any indiscretion I will say that he is contradicting all what he had declared previously.

It is really strange that those of our friends who till the other day used to say that Security Council was not competent to decide our fate or it consisted of a few thieves, today assert that Kashmir's problem is an International one. It is obvious that they have given up from their original stand because their leader has ceased to be the Prime Minister of the State. No power on earth can deprive us from shaping our destiny. We are the master of our own fate and with these words, Sir, I conclude my speech.

***Mr. Bhagat Ram Sharma:** Sir, it is always essential to first determine the territories of a Country when a Constitution is to be framed for it. So we have also adopted this course and have decided our State will comprise of such territories as formed our State prior to 15th August, 1947. Now we have to decide as to who will be the citizen of the State. Sir, previously the State Subject has been defined and we had three categories of these. The first category of the state Subjects consisted of such people as had been continuously living in the State prior to S. 1942. The second category consisted of those who had been continuously living here from S.1955 and had acquired immovable property. The third category consisted of persons who had acquired property after getting formal permission and had settled down in the state for about then years. The first category of State Subjects had all the rights. The second class State Subjects could not secure Government jobs while the third class State Subjects were neither entitled to Government jobs nor to any contracts, but could only conduct ordinary business. When this law was enacted the people from outside raised objections and demanded that they should also be granted such rights as we granted to the permanent residents of the State. But in view of the economic and educational backwardness of the people of the State it was felt advisable to protect them from any undue competition from outsiders who were more advanced than these in regard to education or financial position. Now today, we are again defining the permanent citizen we have abolished the 1st and 3rd categories of State Subjects and the rights previously enjoyed by all these categories equally. Now no distinction will exist between them. Today, only those people raise objections, who are settled here from 1942, but somehow or other have not acquired any property. They demand that since they live here and consider this land to be their home they should be granted all such

rights as are granted to the rest of the citizens. Then there are such people also as entered the State from Punjab after the disturbances of 1947 and settled down in the State. They began to live with their relatives and the Government have accepted them as refugees and have allotted them lands and granted certain other concessions. The people also claim that they may be granted rights and considered as permanent residents. But the number of such people is not considerable and it does not seem necessary to amend the law for them immediately. It will be difficult to fix any time limit for them. For example, if it is provided that they must prove that they have been living in the State for the last ten years and if on that basis only they have to be accepted as permanent residents it will become difficult for them to fulfil this condition in absence of any immovable property or document. So we are facing a ticklish problem. If we grant permanent citizenship to all such people as have settled down here from the last ten years, we may thereby render all safeguards useless which we want to provide for the permanent residents of the State. The people from outside will come and settle down here and somehow produce oral proofs of their genuine State domicile and be thus able to secure the rights of permanent citizens of the State with the result that they will in due course of time increase their number and thereby jeopardize the interests of the backward people of the State. It has been provided for in the draft Constitution that the definition of the permanent residents appearing in Part III of the Draft Constitution can be modified or revised if and when the State Legislature thinks it desirable to include other categories of people in permanent residents. Under these conditions, I think no community or section of our people should nourish undue apprehension in this behalf, since they also can secure their rights in future.

With these words, Sir, I lend my support to this part of the Constitution.

***Mr. Sham Lal Saraf:** Sir, the House is dealing with an important Chapter today. Some of the Hon'ble members have expressed their views with regard to this chapter. I think I should also speak with regard to certain points. So far as the law relating to State Subject is concerned, it is not an old one. It was enacted in 1927 by the Maharaja's Government. Why such a legislative was enacted, it needs certain explanation. I take it up on myself to do so.

Sir, during those days we were studying in colleges and we had begun to feel that our State was also treading on the path of progress. Since education had started spreading amongst our people. Simultaneously it was also felt that people from outside had monopolised the services, trade and commerce etc. of the State. In fact, they occupied key positions in all the spheres of our national activity. Since the State was already a backward one and had remained cut-off from outside world there were very few chances for employment for our people and they fell victim to poverty and squalor. The educated classes felt that if such a state of affairs continued the people of the State would not be able to register any progress. The administrative measures that were adopted then also indicated that no efforts were being made to ameliorate the lot of the people of the State. It was against this background that a movement led by the people like Lala Hansrai, Chowdry Chattar Singh, General Sumander Khan and Mr. Ram Chand Dobey was started in the State for safeguarding the rights of the people. The movement bore fruits and the then Government enacted this legislation. It was the result of this law that you find educated people amongst yourselves. It is because of this legislation that the people of the State took to education and achieved some progress. In short, when we see our young men returning from abroad

after getting themselves trained in various branches of science that is all due to it. As is obvious this legislation was enacted because of the backwardness of our people. And it is essential to have this law in force in our State as long as our State is not free from backwardness. The movement started in 1927 developed into a mass movement resulting in the establishing of a democratic form of government in our State. The people have now their elected representatives who today are framing a constitution of them.

Naturally, when some people or a section of them object to this or that section of the draft there appears to be no priority in their arguments. Even today our people lag behind in education and industry. Therefore, till they get the wheel out of the rut of backwardness we will require such laws.

I quite sympathise with certain points raised by Mr. Sharma. But we should not ignore the situation prevailing at present in our State. We should neither ourselves become victims to any misunderstanding nor allow others to be in the same position. We have never refused to discuss individual cases, but a general discussion on questions pertaining to this matter is likely to create problems which it would be difficult to solve. We belong to such an organization which has taught us to be upright and frank in our actions. So to be frank we are not at present in a position to allow all and sundry to settle down here. Such points should not at all be raised. We have yet to look to the interests of those of our people who are at present living under the enemy occupation. Today, we are defining as to who will be the permanent resident of the State, and in this connection we have declared it openly that we want to safeguard the interests of our backward people and therefore, have adopted such measures as will help us to achieve our aims. With these words I hope apprehension, if any, will be removed and the House will pass the clauses which are at this time before it.

***Mr. G.L.Dogra:** Sir, the chapter of the Draft Constitution under discussion today in the House has been explained in detail by the Hon'ble members. Some remarks have been made with regard to it outside the House also. It is, therefore, essential to clarify the position with regard to permanent residents. How and why the law pertaining State subjects was enacted has already been referred to by other Hon'ble Members. There is a time when all the people of the State irrespective of their caste or creed raised the demand for the enactment of this legislation and the Government was made to define the rights of the State Subjects.

We will have to try to know the people who at present raise their voices against it. On the one hand, it is alleged that we have relaxed its definition and on the other hand it is said that we are creating a sort of discrimination by this definition. I am of the opinion that persons interpreting this clause in this light intend to create confusion and doubts among the people and also want to create disruption. The Drafting Committee has provided for necessary clauses for it in the draft. Formerly, Ist. Class State Subjects were given preference over other categories of State Subjects and when a suitable State Subject was not available people from outside were imported. We have now removed this distinction. The changed conditions demand that such a step be taken. Then a demand is made to the effect that this definition of the permanent residents be deleted. I think if we adopt this course, it will give a setback to the interests of our people. We had to define the permanent citizens for the sole purpose of the land problem i.e., in what condition a person can purchase land. As is known our aim is to establish a socialist pattern of society in our State. In such a society land will belong only to such a person as tills it. Those who do not understand the structure of the society which we want to build are in a confused state of

mind. It has been seen that usually peasants do not migrate from one village to other, let alone they would migrate from one province to other, unless of course they become the victim of a calamity. Hence the interests of even peasants of India are not in any way marred or jeopardized by this definition of the permanent residents. It is only such people as live on earned incomes who oppose our measures. It is not in our State alone but in almost all the States of India that Government jobs are granted to their respective domiciles. Even in their commercial firms the jobs are reserved for the people of their respective provinces. Under these circumstances, I fail to understand as to where lies the justification to raise objections against this section.

***Mr.Harbans Singh Azad:**

(Read Section 63 of the Indian Constitution).

***Mr. G.L.Dogra:** We should not only look at the legal aspect, and should keep in view only the actual practice. Only the permanent residents of this State will be entitled to become the voters of the State Assembly.

Our State is a tourist Country. People from all parts of the world and particularly from India come here. We cannot, therefore, allow every tourist to interfere in our internal affairs. The Drafting Committee realized the difficulty of the non-State Subjects and it was by reason of this that Section 9 has been provided for in the Draft Constitution. The Drafting Committee has provided for adequate provisions for such of the people of various States of India as have settled down here. Hence any propaganda to the contrary is bound to fail. The State Subject law has been in force in our State for the last so many years. It has safeguarded the interests of our teeming millions. We have empowered our legislature to modify this definition of the permanent resident if and when it finds it desirable to do so in the interests of such

outsiders who have now settled down in the State for good. There are others for whom it is difficult to produce any proof of their being the residents of the State. They are naturally feeling disturbed on this score. But the law of evidence has nothing to do with the constitution. We are of the opinion that if the law of evidence is required to be amended it will be done so by the future legislature.

It is an irony of fate that the gentleman who was the first to make a demand for such a law in our State and raised his voice for it, today, his own son opposes his slogan. It was because that gentleman had the interest of the people of State dear to him that he raised the demand, but his son has no such love forth interest of the local people. On the other hand, he voices the demands of the communalist elements of India. When I went through his speeches, to my disappointment I did not find any reference therein to the interests of the people of our State. Let it be known to every communalist to be a Hindu, Muslim or Sikh that we will always oppose them. The National Conference has always fought for the common people and will continue to do so in future also. (Cheers).

Mr. President: The question is that Section VI referred to in the Draft Constitution stand part of the Constitution.

Note: The motion was adopted.

Mr. President: The question is that Section 7 referred to in the Draft Constitution stand part of the Constitution.

Note: The motion was adopted.

Mr. President: The question is that Section 8 referred to in the Draft Constitution stand part of the Constitution.

Note: The motion was adopted.

Mr. President: the question is that Section 9 referred to above in the Draft Constitution stand part of the Constitution.

Note: The motion was adopted.

Mr. President: The question is that Section 10 as referred to above in the Draft Constitution stand part of the Constitution.

Note: The motion was adopted.

Mr. President: With this closes the business for today, we will meet here again tomorrow at 11: 00 A.M.

Note: The House then adjourned till Eleven O' clock on Wednesday, the 31st of October, 1956.

Wednesday, 31st October, 1956/15th Katik, 2013

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, at Eleven O'clock.

Mr. President: (Hon'ble G.M.Sadiq) in the Chair.

***Mr. President:** Hon'ble members, we shall now proceed with consideration of clause 11 to 25 of Part IV. In my opinion, if the House has no objection, amendments should be taken first as several of these are to be brought forward today. The general discussion will be held thereafter and then the decision will be taken.

Voices : Yes, Sir ! Yes, Sir !

Mr. President: Mr. Ram Piara Saraf-Amendment No. 18.

Mr. Ram Piara Saraf: Sir, I beg to move that in clause 12, after the words “making laws” in the last sentence the following may be added:-

“The courts shall interpret these laws according to the canons of jurisprudence to guarantee that such laws are not inconsistent with the Directive Principles”.

Sir, as is evident from the language of the amendment its object is.....

Sardar Harbans Singh Azad : Sir, I think it would be better if all the amendments are moved together and discussion takes place simultaneously.

Mr. President: I do not think that it would be proper, because the amendments relate to various clauses.

***Mr. Ram Piara Saraf:** Sir, I was submitting that in order to make the Directive Principles, laid down in the Draft Constitution, more effective the courts be empowered to see if the laws enacted in the Jammu and Kashmir State on the basis of this Constitution henceforth are constituent with the Directive Principles or not. It has

Note: The star mark indicates that the speech was delivered in Urdu, and the English Translation thereof has been incorporated in the proceedings.

been stated repeatedly that in pursuance of the New Kashmir programme we are marching towards a socialistic pattern of society. Such a kind of society has a definite goal and the social and economic policies in this society are perused in a particular way. As every country has its own kind of a social order we too are going to have a socialistic order of society based on the Directive Principles embodied in the Draft Constitution. We cannot achieve this aim unless we follow principles that will take us to the goal of equal

distribution of wealth and lead to the strengthening of our economy. But the fact is that these Directive Principles will not be enforceable by any court of law and neither will these courts be in a position to restrict any such law which is inconsistent with the Directive Principles. It is just possible that in future laws may be enacted that may not be compatible with a socialist society. I will cite an example to illustrate my point. Land reforms were carried out in the State and the feudal system was replaced by a democratic set-up. Tomorrow a new legislature may repeal the law and create a new one and raise the ceiling in respect of land holdings. Would not such a law be contrary to the objectives set forth in the Directive Principles? It is in view of this that my amendment seeks to empower the courts to challenge the validity of such laws as are inconsistent with the Directive Principles.

Another matter that I want to bring to the notice of the House is that our country has very rich deposits of minerals which can be utilized to build the economy of the State, to increase the national wealth, to provide work to the unemployed, thus raising the standard of living of the people. We may grant a lease to some outside agency for a period of forty or fifty years to get these deposits worked out. But we have laid down some principles in the Directive Principles which, among other things, aim at increasing the national wealth of the State. And when we empower our courts to safeguard these principles, the courts will see whether any law goes against these principles and, consequently, if a lease is to be granted or not.

Likewise we have to take similar steps in regard to our forest wealth. We will have to think as to what laws are to be enacted in connection with the working out of the forest wealth so that it proves a source of benefit to us.

The Directive Principles also lay down that the State will be responsible for ensuring free education. Tomorrow another Government may come to power and impose tuition fees on the students. In this way fees may be charged from all students or for higher education. And when the courts are empowered to see that no measure of the Government goes against the Directive Principles, it is in that manner alone that the spirit of these principles will be adhered to. Similarly, there may be some legislation regarding indirect taxation which in view of our socialistic objectives we have to arrange for the distribution of our national wealth in a particular manner so that the incidence of taxation on people with smaller incomes is smaller with greater incomes is larger. We cannot preclude the and on people chances of such legislation unless our courts are empowered in this respect.

We have, moreover, given priority to the co-operative sector of economy over the public sector under the Draft Constitution. It is just possible that the public sector may become an obstacle in some way in establishing a socialistic pattern of society. Democracy demands that to build an order of society like the one we aspire to build the courts should be given maximum powers in respect of such matters. There are a number of countries in the world that are seeking to achieve the goal of a socialistic pattern of society. These countries have incorporated principles similar to our Directive Principles in their Constitutions and given them basic character. They have declared these principles to be their first article of faith in building socialism. There is, however, no binding on the legislature to act upon the Directive Principles embodied in the Draft Constitution. For instance, it lays down in this part that the State shall strive to secure to every

youth equal opportunities in employment but there is no time limit within which this goal is to be reached and neither has it been provided as to how it is to be accomplished. Considering that we have an ideal before us and that the Indian Parliament has laid it down that the future set-up in India will be of a socialistic pattern and in view of the clear outline given in the New Kashmir of such a society, it is essential that judiciary should be vested with necessary powers in this behalf. There is no doubt that so far as the National Conference remains in power the policy of building a socialist society will be followed. But, all the same, the powers to see to the implementation of these Directive Principles must be vested in the judiciary of the State. With these words I move my amendment.

***Mr. Krishan Dev Sethi :** Sir, while supporting this amendment I would like to submit that it has been the goal of the National conference since its very inception to establish a democratic and a socialist set-up in the State. We have not lost sight of this fact while drafting the Constitution and, in fact, it reflects these very principles. The National Conference struggled for the realization of these principles. The autocracy opposed our struggle and showed a determination not to allow a democratic or a socialist order to be established here. The National Conference, however, continued its struggle for its objectives. Our Constitution contains provisions for the advancement of democratic principles and the establishment of a socialist regime. While the Sadar-i-Riyasat will be responsible to the Ministry and the Ministry to the Legislature, all power will be vested in the Legislative Assembly. There is a guarantee in the Directive Principles that the Democratic and the Socialist principles will be kept in view for various bodies at lower level. As the powers were transferred to the Legislature the People of this place got the power to frame their own laws and democratic re-organization of various

departments took place. Now in order to facilitate our march towards socialism we have divided our economy into private, co-operative and public sectors. Likewise all the agricultural produce will be owned by the public and the State will organize its distribution for the benefit of the people. So long as the means of produce cannot be utilized for the good of the masses. Under the present conditions private sector can play a healthy role in developing the economy of State especially when it is invested in national enterprises. As has been explained by Mr. Saraf there is no guarantee to the effect that no Government or legislature in future will make laws inconsistent with the Directive Principles of the Draft Constitution. However, it cannot be expected that the Government and the legislature will give these principles a practical shape immediately. It has not been laid down in the Constitution that no law will be enacted contrary to its Directive Principles.

The Constitution will be a fundamental law for the State. It is not a law that may be amended frequently. It is fundamental law which will form the basis of our future legislation. It should, therefore, be made quite clear that no future Government or legislature can go against these principles. Our democracy and the democratic rights of the people in itself are strong guarantees for this purpose. In absence of such guarantees the Constitution will be set at naught by an opposition party when and if it comes into power. It is, therefore, essential that the courts must have the right to interpret the rights given to the people by the Constitution. This amendment does not aim at securing a Constitutional guarantee for all these rights. Its purpose is that no Government or legislature may make any law that is inconsistent with the Directive Principles. It makes it imperative that the courts should have

jurisdiction to interpret these principles so that in case of violation they could give their decree against it. The purpose of this amendment, in short, is that no Government should take any step that is contrary to the Directive Principles. With these words I support the amendment.

***S.Harbans Singh Azad :** Mr. President, Sir, the object of the amendment moved by Mr. Saraf is that the courts be empowered to interpret the laws enacted by the Legislature with a view to judging whether such laws are in conformity with clause 12 of the Directive Principles or not. If this amendment is accepted many difficulties are likely to arise as anybody can go to a court and complain about any law made by the legislature that since it does not conform to the Directive Principles (clause 12) it should be declared “**Ultra vires**”. What would be the result? The legislature enacts dozens of laws in a year pertaining to land reforms, industries, economic matters and many other things. Every law having any bearing on the economic life will be challenged in the courts. This would clearly mean that the sovereignty of the legislature will be subject to the will of the courts. It would give rise to a complicated situation. Mr. Saraf has posed a question and asked the House to think what would happen if some other party come to power. I would like to ask him as to what would be the guarantee of the Constitution in that event. Any Assembly in future may amend the Constitution in whatever way it likes if a two third majority of its members are in favour of such a move. The whole Constitution excepting a few sections may in this way be changed. The party that has incorporated the Directive Principles in the Constitution alone can afford to guarantee their implementation. It is to be seen as to what is the economic and social programme of the new ruling party. If they too have a similar programme no need will be felt to change the structure. Moreover, if the National

Conference party, which is in majority at present at any time goes against the Directive Principles the legislators belonging to this party will have a right to change the leadership of the party as well as the cabinet. Is not this a guarantee for the implementation of the Directive Principles it will be the duty of the people to act and vote such a party to power as will carry out these principles.

Sir, clause 12 reads: "The provisions contained in this Part shall not be enforceable by any court, but the principles laid down are nevertheless fundamental in the governance of the State and it shall be the duty of the State to apply these principles in making laws:

Sir, what more guarantee is sought when these principles are to be fundamental in the governance of the State and when it would be the duty of the State to keep them in view in making laws. The object is clearly that while making laws these principles should be kept in view.

Mr. Saraf, has said that the laws to be enacted regarding the mineral deposits should be in conformity with these principles. I would like to say it for his information that a mineral resource is a Central Subject. If the private sector is in a position to develop the economy of the State satisfactorily and if the Government may not be able to take the extraction of forest produce in its own hands, in that case no law can be made will allow the private sector to take up this work. Such laws, if enacted, will be challenged in a court of law on the basis of their being contrary to the Directive Principles. The Government cannot, moreover, take up the mineral extraction work up to five years. An even if the amendment of Mr. Saraf is accepted the Government cannot take any measures in this behalf because it lacks the resources needed for an efficient and satisfactory working of the mineral

resources or the forest products. If we accept this amendment it will create a lot of difficulties which will, in their turn, pull down the whole structure. It is the duty of the Government to see that opportunities should be afforded to the private sector to make its contribution for the advancement of the Country. Means of production, however, should be controlled by the State itself.

The courts will have the power to declare any law “**ultra vires**” of the Constitution if it contravenes any section thereof. But if the courts are empowered to interpret the laws framed with a view to improving the economic set-up of the country it will be a source of much trouble and many complications. It is, therefore, that I oppose this amendment.

Mr. President: Now I would request the Constitutional Advisor to give his advice in this Connection.

***Mr. Justice M.A.Shahmiri:** With the permission of the Hon’ble President I would like to say something regarding the essential difference between the Fundamental rights and the Directive Principles. People may go to a Court of Law for safeguarding their Fundamental Rights and it is the duty of the courts to see that Government or any other authority does not violate these rights by interference or otherwise. The Directive Principles however are not justifiable and their check does not like with the courts. If this basic difference were not there, there is not reason why these should not be included in the Fundamental Rights and the need for a separate chapter done away with. It is because of a fundamental difference between them that they have been included in separate chapters.

It has been said that if there is not need for any judicial check in this behalf why this chapter has been included in the Constitution at all. I would like to submit that such an objection would not be correct. It is not necessary

that every provision should have a check by the courts. There is no denying the fact that check by courts is a useful thing but there are other ways also of providing checks in a Constitution. As has been already stated by Mr. Harbans Singh Azad these principles will be fundamental in the governance of the State. The Legislature will check on them and whenever it sees that the Government is not acting upon these principles, it can pass a vote of no-confidence against it and remove it from power. If the legislature also backs the Government in such a case then there are the people to be reckoned with. When they find the Government or the legislature violating their fundamental rights the people have a right to change the legislature. That shows the essential difference between the Directive Principles and the Fundamental Rights I would again submit that people can approach a court for securing their fundamental rights but courts have no check over the Directive Principles. This check is exercised by the legislature and in case the legislature fails to perform this duty the people are always there to set the matters right.

***Mr. Abdul Gani Goni:** Sir, I would like to say a few words in support of Mr. Saraf's amendment. So far as the explanation given by Mr. Justice Shahmiri is concerned it is correct to say that there is some difference between the Fundamental Rights and the Directive Principles. From a little knowledge that I have got about the Constitutional Law I think the Directive Principles in Draft Constitution are along the lines of the Government of India Act of 1935 when there used to be Governors and the Governor-General in India. These dignitaries got their instructions from England through Instrument of Instructions. The Directive Principles fulfil the same purpose. It was not binding on a Governor or a Governor-General to follow the instrument of Instructions. They would study the situation and run the

Government in the light of these instructions. I think the relevant provisions thereof are included in Chapter IV of the Indian Constitution. I am aware of the fact that a Constitution should be a complete document. The Directive Principles constitute a kind of instructions for the Executive Clause 12 of the Constitution lays down that courts cannot enforce these principles. The Government and the Executive will have a vast field before them where they can get guidance from these principles in their actions. But great changes have taken place from 1935 upto 1956. The present amendment does not provide a check for the courts Mr. Harbans Singh Azad has said that courts will frequently interfere on writ petitions. It is an injustice to courts to say so. In my opinion the amendment should say that no law that is contrary to the Directive Principles be enacted. Such an amendment would not be a check but, on the other hand, would be greatly helpful to the Government and the Executive. So if this amendment is passed in the present form there will be no check on the courts. There are a number of articles in the Indian Constitution that prove instrumental in challenging any law under Article 226 in a court. As a lawyer, I cannot but object to the arguments advanced by Mr. Harbans Singh Azad. I know that when a petition is presented to the High Court, it is duly discussed and given full consideration. With these words I support the amendment.

***Kotwal Chuni Lal:** Sir, there are certain directions of a fundamental nature contained in the chapter of the Directive Principles under discussion. The present Government and the future Government will have to act upon these directives and enact laws for the country in consonance with them Directive Principles are not contained in our Constitution alone but have been incorporated, besides India, by Burma and Ireland in the Constitutions. In the India Constitution these directives have been included in the chapter on

Fundamental Rights. In a way it is a guarantee that every Government will have to adhere to these Principles and not act according to its own sweet will. There would have been no difficulty if we too had incorporated these principles in the chapter on Fundamental Rights. These principles contain certain broad hints regarding the lines on which the reconstruction of the country is to be effected. In the opinion of the constitutionalists the Directive Principles reflect the desires of the people and give an outline of the future economic and social set-up of a country. To make these principles enforceable by courts is a difficult problem. The Constitutional Advisor has rightly said that it is the people of a country who have to finally pass verdict whether a Government has given a practical shape to the Directive Principles or not as the members of the Legislature get their votes from them. They can compel their representatives to adhere to these principles and see that these are implemented.

In view of the New Kashmir Programme as well as clause 14 of the Draft Constitution there is no scope either for capitalists to monopolise production or for exploitation. Our objective is evident and we want to make it clear to the world that we desire to build our social structure in the State on a Socialistic pattern. We had produced an outline in 1944 for this purpose which is known as New Kashmir. It is a fact that certain reactionaries from within and without the country are complaining that our Directive Principles are of a very radical nature and do not accord with the Directive Principles of the Indian Constitution. These reactionaries have forgotten that it was declared in the Avadi Session of the Indian National Congress that the future social set-up in India will be of a Socialistic pattern. Prior to that session the Indian National Congress had made no such commitment. On the contrary, we prepared an outline of our social and economic objectives

as early as 1944. in other words, we had declared our policy in this behalf through New Kashmir much earlier than the Indian National Congress. It is, therefore, wrong and baseless to dub these Directive Principles as radical. My learned friend, who moved the amendment, has pleaded that the Directive Principles be made enforceable by the Courts. I would like to make a submission to him that this progress will prove very difficult and complicated. I believe that the people will act as the ultimate judge in matter and they change any Government for violating these principles.

Sir, we have taken a decision that our social set-up will be of a socialistic pattern. In a recent speech in Calcutta Pandit Ji said:-

“Real democracy and unrestrained private enterprise are in compatible. Democracy to fulfil its functions, therefore, must become economic democracy also”.

We want to make it clear that capitalism and exploitation will have no place in our set-up, we are not against private sector playing its role in our economy but it would be necessary for the State to control the natural resources. Clause 14 (c) lays down:-

“14(c) the private sector where the means of production are owned by an individual or a co-operative employing labour provided that the operation of this sector is not allowed to result in the concentration of wealth or of the means of production to the common detriment”.

It is clear provision that we have included in our Draft Constitution. The principle underlying it has already been adopted by India. The future Governments of the State will have to act upon the principles in order to establish a socialistic society. We will have to move the electorate in support of this policy because it is they who have fought and made sacrifices for the establishment of such a society.

***Mr. D.P.Dhar :** Sir, many argumentative speeches have been made for and against the present amendment and the Constitutional Advisor too has explained the fundamental issues involved in it. Under these circumstances, I think it would not be much useful on my part to speak except on a few points that require some elucidation. These basic things to be understood in this respect is that these Directive Principles are not merely ornamental. Various clauses of the Draft Constitution embody most of their contents, especially the guarantees provided in the chapter on Judiciary, Executive and Legislature etc. can be cited as instances. Some of these directives pertain to the social and economic setup of our State and such principles have been amplified in this chapter. We want to establish a socialist society through Parliamentary means. The need for putting this proposition of a socialist society before the Assembly arose because we believed that an overwhelming majority of the State people subscribed to this principle. People themselves are the guarantee for this ideal because it is they to whom the sovereignty belongs. The people, if they like, will stick to these principles and, God forbid, if they want to deflect from this part they are free to do so as well. All the same, we are confident that they will not forsake these principles. This present trend of events clearly indicates that they are determined to establish a society outlined by us in the Draft Constitution.

As has been stated by Mr. Shahmiri there is a basic difference between the Fundamental Rights and the Directive Principles. One can invoke the aid of a court in respect of the Fundamental Rights when one has a complaint against the Executive. The court have jurisdiction in such matters. But it is not correct to say that the Directive Principles be made justifiable. However, it should not be concluded from this that we want to

curtail the powers of the courts in any way. You will find in this Constitution that we have clearly defined the spheres of the judiciary and the legislature. As far the Directive Principles you will not find these justifiable in any Constitution. Regarding forests and mineral resources, I would like to draw the attention of Mr. Saraf towards that part of the Directive Principles are meant for any Government that comes to power. The purpose behind these principles is the welfare of the people according to a planned development. These were a few things regarding which I felt a need to say something.

Sir, Mr. Goni has said that Mr. Azad does not like those courts should interfere. It is not true that we do not want any interference by the Courts but we certainly want their interference to remain within the bounds of their jurisdiction. To understand the main difference between the past and the present is that in the past there were Governors and Governor-General who were not responsible to the people but to their masters only. They could deviate from the instructions they received but it is impossible for a legislature to disobey the Directive Principles when it is responsible to the people.

With these words, I conclude my speech and hope that Mr. Saraf will be feeling satisfied now and will withdraw his amendment.

Mr. Ram Piara Saraf : I do not want to press my amendment and seek the permission of the House to withdraw the same.

Mr. President: Mr. Ram Piara Saraf wants to withdraw his amendment. Should I think that the House permits him to do so?

- The amendment was withdrawn with the leave of House.

Mr. President: Mr. Abdul Khaliq Butt-Amendment No.1.

***Mr. Abdul Khaliq Butt:** Sir, I move: “That in the Chapter on Directive Principles of the State Policy in cause 13 for the word ‘consistent’ the words ‘in accordance’ shall be substituted. Sir, the only representative political party of our State is the National Conference. This organization has been guided in all its achievements by its programme of New Kashmir which reflects the aspirations of the people of this country. The present clause 13 contains the word “consistent with the ideals and objectives of the freedom movement envisaged in New Kashmir” but in my opinion the word “consistent” is not an appropriate word and does not excess a determination to follow “New Kashmir”. It is, therefore, that I move this verbal amendment in the House seeking to change this word for the words “in accordance” .

Mr. President: (Addressing Mr.abdul Kahliq Butt). The difficulty in regard to your amendment is that it has not been seconded.

Mr. Ram Piara saraf !

Mr. Ram Piara Saraf : Sir, I do not want to move my amendment.

Mr. President: Mr. Abdul Khaliq Butt.

***Mr. Abdul Khaliq Butt :** Sir, I move: “That in clause 15 the words ‘endeavour to’ shall be omitted so that the clause reads: “The State shall organise and develop.....

Sir, the majority of the people of our State depend on agriculture and animal husbandry for a livelihood. The Draft Constitution says that “the State shall endeavour to organise and develop agriculture and animal husbandry”. I, however, want that the words should be clear and unambiguous and that the Draft Constitution should contain a guarantee that these things will be developed. Hence this amendment.

Mr. Ghulam Rasool Sheikh: I second it.

***Mr. Mir Qasim :** Sir, so far as the English version of the clause is concerned it clearly states that “ the State shall endeavour to organise and develop.....” And so the word required by Mr. Butt to be substituted here is already there. I do not know as to what occurs in the Urdu version. May be that some discrepancy has crept in the translation. In view of this elucidation I hope that he will not press his amendment.

Note:- Mr. Abdul Khaliq Butt withdrew his amendment with the permission of the House.

Mr. President: Mr. Saraf.

Mr. Ram Piara Saraf : Sir, I beg to move :-

“That in clause 19-A after the words ‘established by law’ the words:

“The right shall be enforceable by a court of law after a period of ten years shall be added”.

Sir, clause 19-A provides that the State shall secure to its people the right to work and the purpose of my amendment is that the State should do it within a period of ten years.

The Directive Principles indicate that the social structure of the State will be of a socialistic pattern. In other countries with similar objectives the State guarantees the establishment of socialism and the right of the people to work in its Constitution. The State thus is responsible to provide work to every citizen. Our political organization, the National Conference, has made a promise to the people in its programme of New Kashmir to secure to them the right to work. No doubt, it is a difficult task to secure to the people the right to work but the period of ten years is by no means insufficient for this purpose. Our State has already launched a programme of Five Year Plans and while First Plan has already been completed, the Second Plan that we should make particular endeavours to develop our national economy so that

in ten years time we are in a position to guarantee to every person the right to work. The Constitutions of all the States embody such guarantees and it is, therefore, needed that we too should accept the principle of people's right to work in order to ensure the establishment of a Welfare State. We should also strengthen our economy by planning. We should also utilize our various resources to achieve this purpose.

I feel that I should say something regarding the contract system in vogue in our State. The way we are doing things under this system is proving an obstacle for our national economy. We should, in view of our programme of New Kashmir, provide a guarantee for the right to work so that we may lead our people to prosperity. It is correct to say that the material resources of our State are not sufficient for this purpose but much can be achieved in a period of ten years. Ours is an age of electric power and atomic energy and we have instances before us where countries have been greatly transformed in a matter of a few years. The resources of our State are vast. We have great forest, wealth and mineral deposits; we are rich in power and water resources. For instances, we can build a power project from water at Salal. The power thus generated will not only provide electricity but can be utilized for exploiting mineral wealth as well. It can also prove very helpful for extending irrigational facilities. If we tap our agricultural resources it will ensure a livelihood for all our people. The resources of the State are many. In reply to my previous amendment it was stated that the State might not be able to utilize all the resources of our forests but if we cannot do it today the State will, in a few year's time, be certainly in a position to tap these resources and provide a living to the people. Similarly, development of industries can lead to the economic betterment of our people. Improvement in the means of irrigation will result in increased

agricultural production. By harnessing scientific aids to our productive methods we can increase the wealth of our State. When we can avail of such opportunities why should not we concede their rights to the people.

The Directive Principles constitute the basis of our policies. No doubt, these principles will be fundamental in the governance of the State and nobody denies it. But it is also essential that we should give rights to the people so which are backed by constitutional guarantees. It is also correct that power rests with the people but it will take five long years before they get an opportunity to exercise this power. The Legislature may sometimes take a step which is against the interests of the people but the people cannot take any action against the members of the legislature for their wrong doing. We should, therefore, provide for the right of recall so that people may get this right also in addition to other rights. However, no such provision has been made. While moving my previous amendment I had submitted that.....

Kotwal Chuni Lal : Sir, the Hon'ble member is reopening an already decided issue.

Mr. President: I have several times drawn the attention of the Hon'ble members to the time limited fixed for their speeches but no one has adhered to it. Now I will particularly ask Mr. Saraf to have the time factor in view.

Mr. Ram Piara Saraf: Sir, I was only referring to my previous amendment. My submission is that when we are considering the Constitution we have to see as to what rights we are giving to our people and whether these rights are given a practical shape. Indeed a legislature can amend a Constitution in any manner it like but the rights that are given to the people once can not be snatched away by deprive them of their rights. My amendment proposes that every citizen should get the rights to work within a period of ten years and I

think it is quite proper. It would be consistent with the parliamentary and democratic traditions if we fix time limit in this behalf and ensure a speedy advance towards the establishment of a socialistic pattern of society wherein people enjoy all the fundamental Rights. With these words I move my amendment.

Mr. Ram Pakha Mal: Sir, I support his amendment.

Mr. President: One more amendment of similar character regarding this clause has been received from Mr. Baghat Ram and I think it needs not to be moved. The Question is already being considered.

S. Harbans Singh Azad: Sir, I have once again to oppose the amendment moved by Mr. Saraf. So far as the words of the amendment are concerned neither I nor the members of the Draft Committee can have any objection to it. The working of the amendment is as follows” The rights shall be enforceable by a court of Law after a period of ten years”. “After ten years” may well mean after a hundred years or after two hundred years.

Mr. Baghat Ram Sharma: Sir, there is no such flaw in my amendment.

S. Harbans Singh Azad: Sir, I have no objection to it that under every social set-up a citizen should have a guarantee for obtaining work from the State. On the other hand a society which can provide work for all but does not so is indeed a mismanaged society. So far I agree with Mr. Saraf. Let us consider an example. There is a poor man and he passes by a confectioner’s shop and feels tempted to have “rasgulas” but searching his pockets he finds no money in any of them. So far as his desire is concerned it is there but when he has no money he can have no “rasgulas” We know that our economic structure is planned by the centre. It is again the centre that controls the imports and the exports. Unless the Economic position of India does not reach such a level as to be able to guarantee a live hood for all it

would be impossible for us to do so. When the Centre provides such a guarantee Kashmir will also do it because the Directive Principles of the Indian Constitution are applicable to the whole of our country.

Sir, this clause is apart of the state constitution and if this amendment is adopted the state will have to enforce it. But it is obvious that the economy of our state cannot provide such a guarantee .we cannot even say when the state would be able to give a guarantee that it will provide work to all of its citizens. We do want that effective measure should be adopted to achieve this goal and as far as possible every citizen should get the right to work. if we adopt this amendment now. Every citizen will have a right to go to the Court of Law and make a claim for work. What would be the result? Every person who is unemployed will get an opportunity to approach a court. Sir, this problem will not be involving a very large number of the present masses, especially in the Kashmir Valley. Who get to work for five to six months in a year? Eighty percent of our population comprises peasantry and I would like to know if this State will be able to provide work to very peasant for the whole of the year even at the end of ten years from now. I think it will be impossible and no such guarantee can, therefore be provided. There are, besides, peasant whose income does not exceed Rs 20/- Thousands of peasants families do not posses more than six to ten Kanals of land per family. Is it not obvious that these peasants get from their land less than what is actually needed by them The peasant ekes out a miserably living from his patch of land while there is no way for him to augment his income. If the present amendment is adopted we must give a guarantee to these peasants also. But we cannot do so unless enforce able loses all meaning even if it is embodied in the Constitution. There is however the hope that when the State is in a position to provide work to all the people

such laws or Constitutional provisions may be made with these words I opposes the amendment.

***Mr.Bhagat Ram Sharma:** Sir, I would also like to day a few words in respect of the amendment under consideration of the House. S.Harbans Singh Azad while objecting to the amendment moved by Mr. Saraf has said that the words “after a period of ten years” occurring therein have no definite meaning as the mover had not reckoned. However, a similar amendment put forth by me which is being considered by the House at this time does specify date from which such a period is to counted.

My amendment is as follows: - “In Sub-clause (a) of clause 19 the following proviso shall be added “Provided that the right conferred by this clause shall be enforceable by any court after the expiry of ten years from the date this constitution comes into force”.

The objection raised by S.Harbans Singh Azad is in my opinion meaningless. He said while everybody’s mouth water at the sight of “rasgulas” at a confectioner’s shop no can have the sweets unless he has money in this pocket. Obviously, he has forgotten it that we intend to build such a state wherein a policy of making “rasgulas” will be pursued only if it can provide ‘rasgulas’ to all. There would not be such a thing that Sardar Sahib alone will have “rasgulas” while others are denied this pleasure. Our will be a responsible government only at a time when it guarantees work to all its citizens, Democracies wherever they exist a present, guarantee freedom of speech freedom of speech freedom of press, and many other freedoms to the people but I think a person who has no lived hood can not get much benefit from all these freedoms. The real position is that while he has a capacity to earn a living for himself he cannot do so for want of work and at present the state is not responsible in any way in the matter. For such

a person freedom of press, freedom of speech and freedom of religion has no meaning. There is always a danger that the conscience of such a man may be purchased. If you want him to avail himself of the freedom of press and platform he should, in the first instance, be given the right to a livelihood. If this right is not given to him all other Fundamental Rights are mere rights on paper.

Sir Sardar Harbans Singh argued that the inclusion of such provisions in the constitution would create great difficulties and therefore no government could undertake such responsibilities. His objections might have created some impression in the past but we are now living in the age of twenty-five years plan and ten year plans. These plans bring about considerable changes in the social and economic life of all citizens. In the absence of a guaranteed livelihood such plans cannot achieve much beyond construction of a few bridges road and canals.

Sir, if we include a guarantee in our Constitution to provide work to all after a period of ten years it becomes obligatory for the Government and the Legislature of the State to organize the State economy in Five Years Plans in such a way that after the expiration of this period every citizen could be given the right to work. Any person who is unable to support his dependents for want of work should be entitled to receive a cash dole from the State Treasury. To call a set-up as responsible merely because it is democratic is not correct. Sir, it is a matter of common experience that at the time of election many persons come forward and champion the cause of the people. They include persons of weak character and the little worth. Some times even a person who is not able to shoulder the burden of supporting a family of five people announces his preparedness to further the cause of as many as four million people of the State. The reason is that he knows that he

will not be responsible for providing a livelihood to the people after he is returned to the Assembly and gains power. He knows also that it is only a Directive Principle, which is not enforceable by courts. On the other hand, he is assured of a first class car and a first class bungalow when he comes to power. He knows that the people who could not talk to him would be meekly paying their obeisance to him.

Mr. President; I think the Hon'ble Member is speaking very irrelevantly.

Mr. Bhagat Ram Sharma: Sir, what ever I was speaking was most relevant.

Mr. President: I say this is most irrelevant and the Hon'ble Member must withdraw his words.

Mr. Baghat Ram Sharma; Sir, I withdraw these remarks. There is nothing surprising in fixing a time limit. Sir, it has been under taken by a provision in the Constitution that fourteen years old children will be educated within a period of ten years? In view of the fact that there are hundreds or thousands of children of this age in the State the Government has under taken to fulfill a great responsibility and it should not also feel embarrassed in any way to accept the present amendment. S Harbans Singh is perhaps thinking that all people of the State are without work. That is not the position. There is no army of unemployed people here; they are already doing their best to find a livelihood. The proposed provision will be a guarantee that every citizen will have the right to work. In my opinion it is the birth right of every citizen to get such a guarantee. It would not be a favour to him from anybody. What I want is that every citizen should get an opportunity to earn a living. The millions of rupees spent under the Five Years Plans should have definite objectives and targets to achieve. We should know the stage of development that we are going to attain after the completion of a plan I do not think we

know the position that we achieved at the end of the First Five Years Plan. Neither do I suppose that we know the goal of our second Five Year Plan. The things we are doing do not ensure permanent sources of livelihood to the people. I would emphasis the need to organize all the activities of the State with a view to providing the people the right to work. Everybody should get a living within ten years of the commencement of this Constitution. A citizen should be entitled to move the Government in this respect. With these words I support Mr. Saraf and move my amendment.

Mr. President: It is 1 p.m. now and the House adjourns till 2.30p.m.

AFTER LUNCH (2.30P.M.)

Note: The Hon'ble President adjourned the House for fifteen minutes more for want of quorum..

☛ The House re-assembled at 2.55 p.m.

Mr. G.L.Dogra: Two amendments have been moved one by Mr. Saraf and another by Mr. Bhagat Ram Sharma. These have been already discussed and some Hon'ble Members have expressed their ideas regarding these. I think nobody will disagree with Mr. Saraf in what ever he said but does he think that his objective will be archived if his amendment is adopted. Has he presented his amendment in the right from? Sub-clause (a) of clause 19 reads:-

“The state shall with in the limits of its economic capacity and development make effective provision for securing to all permanent residents men and women on the basis of complete equality.

(a) The right to work that is the right to receive guaranteed work with payment for labour in accordance with its quantity and quality subject to a basic minimum and maximum wage established by law. Mr. Saraf wants the following words to be added at the end of the said sub- clause.

“The right shall be enforced by a Court of law after a period of ten years”

Combining the two, the clause will read:-

“ The State shall within the limits of its economic capacity and development, make effective for securing to all permanent residents, men and women on the basis of complete equality: -

(a) The right to work, that is, the right to receive guaranteed work with payment for labour in accordance with quantity and quality subject to a basic minimum and maximum wage established by law. The right shall be enforceable by a Court of law after a period of ten years”

This amendment is of no avail as this clause specifies certain conditions under which the “right to work” can be guaranteed. So far as its implementation is concerned no difference will result from prescribing a time limit. These conditions are meant for the legislature so that it keeps then in view when making any laws. The Hon’ble Mover of the amendment wants it to be enforceable by a Court of Law. Clause 19 reads: -

“The State shall, within the limits of its economic capacity and development”

So the rights are to be established within the limits of this very capacity and consequently laws too will be enacted according to economic capacity and development. Tribunals will be set up regarding rights that are conferred by law. The Courts cannot enforce these rights without a law. If at

time any dispute regarding interpretation of law arises, the issue is decided by a court. The Directive Principles contain elastic provisions and it is impossible for any court to enforce them. As the State marches ahead on the path of progress and better opportunities of development because available, the scope of employment will also undergo a change. It will be the duty of the Legislature at such a stage to frame laws consistent with the prevailing circumstances. I would like the present structure; the ours are technical courts as we have borrowed the British System of jurisprudence. If we think that courts will give their decisions in accordance with the wishes of the people it is bound to prove a fond hope. The present courts act according to written law and when the law is not clear the British system of jurisprudence is followed. Moreover, our aspirations and the British system of jurisprudence are bound to come into conflict very often. British jurisprudence was born of Roman law, which included Law of Slavery. We should, therefore always keep it in mind that British Jurisprudence and the fundamental concepts of our Directive Principles are not consistent with each other;

Mr. Ram Pier Saraf: If that law is defective, why do not you change it?

Mr. G.L.Dogra: The task is not so easy as you seem to think it. British pattern of courts is an essential feature of the Parliamentary system and loose and elastic provisions are not referred to the courts. If that is done, it will create a strange situation. We can make a regular enactment later in the legislature, but this amendment cannot serve any useful purpose at the present time. A number of labour laws have been enacted in India and when provisions contained there in were referred to the Supreme Court some unexpected interpretation was given to these, which gave a setback to the people's aspirations. In my opinion we should entrust only that work to our

Judiciary, which concerns it under the present circumstances. If we entrust the work of the Legislature to the Judiciary it will deprive the former of its powers. It has been made obligatory for the Legislature under clause 19 of the Draft Constitution to make such laws as may be conducive to the Progress and advancement of the State. No time limit has been fixed for this purpose and a decision in this respect will be taken by the Legislature itself.

Mr. Ram Piara Saraf: Sir, I would like to know whether the Hon'ble Member is opposing the amendment on principle or on technical ground's

Mr. G. L. Dogra: on technical grounds Sir as we are engaged in the constitution making at present.

Mr. Ram Piara Saraf; if the chairman of the drafting committee accepts it on principle then it can be approved technically.

Mr. G. L Dogra; I have only tried to make it clear that this thing cannot be laid down in the directive principles and no draftsman will do so. It will be the function of a future legislature to perform this task and the present drafting committee cannot do it. It has been said that construction of bridges road and canal s does not solve the problem of unemployment and that the five years plan be implemented in a way that will ensure increased employment. I would like to submit in this connection that the government of India has fixed some targets under the plan concerning the employment. Every work under the plan indicates the extent to which it will provide employment to the people. We too have prepared to our plan in accordance with the same principles. It is because this point has been touched upon her that I have expressed my views about it.

So far as the amendment is concerned, it is not possible to incorporate it in the present clause and no satisfactory result will be achieved even it is

done. The Draft Committee, while drafting raised in the House. With these words I would request the mover not to press his amendment.

The motion was withdrawn by Mr. Ram Piara Saraf with permission of the House.

Mr. Bhagat Ram Sharma, he withdrew his motion with the permission of the House.

Mr. President; Major Piar Singh!

Major Piar Singh: Sir, I move:-

“That the following clause be substituted for clause 19: -

19. The State shall, within the limits of its economic capacity and development, make effective provision for securing:-

(a) that all permanent residents, men and women equally, have the rights to work i.e., the right to receive guaranteed work with payment for labour in accordance with its quantity and quality subject to a basic minimum and maximum wages established by law;

(b) that the health and strength of workers, men and women, and the tender age of children are not abused and that permanent residents are not forced by economic necessity to enter avocations unsuited to their sex, age or strength

(c) that all workers, agriculture, industrial or otherwise, have reasonable, just and humane conditions of work with full enjoyment of leisure and social and culture opportunities;

(d) that all permanent residents have adequate maintenance in old age as well as in the event of sickness, disablement, unemployment and other cases of underserved want by providing social insurance, medical aid, hospital, sanatoria and health resorts at State expense”.

Sir, clause 19 of the Draft Constitution is lengthy and couched in a language not intelligible to the common people. The present amendment seeks to make its language simple and clear the existing ambiguities on the one hand and on the other to extend the benefits of this clause to such workers besides the permanent residents as may be working in the State. So these facilities to which a permanent resident is entitled will, under certain circumstances, be available to non-State subject working people also.

With these words I move the amendment.

Mir Qasim:- Sir, in support of this amendment I would like to say that the purpose underlying this amendment is that besides permanent residents other people like engineers, and teachers etc. working in the State should also get benefits and privileges conferred by this clause.

Sardar Harbans Singh Azad:- Sir, sometimes a Member says “I withdraw the motion” and sometimes it is said that “I do not want to press the motion”. It is true that the motion which is not pressed is to be taken as withdrawn.

Mr. President:- Once an amendment is moved or a motion is put before the House there are two courses open i.e., either the House should reject it by vote or it should be withdrawn by the Hon’ble Members. When a Hon’ble Member says that he does not want to press his amendment it means that he wants to withdraw it. Once it becomes the property of the House, it should be decided by vote or should be withdrawn by the Hon’ble Member.

Major Pira Singh has moved an amendment in clause 19 with the object of improving its language. I think the House agrees to it.

The House agreed and the amendment was adopted.

Mr. President:- Mr. Mohammad Ayub Khan.

Mr. Mohammad Ayub Khan:- Sir, I do not want to move my amendment No.45.

Mr. President:- Mr. Abdul Khaliq Butt.

Note:- The Hon'ble Member was not present in the House.

Mr. President:- Mr. Mansukh Rai.

Note:- Mr. Mansukh Rai was not in the House and the amendment was not moved.

Mr. President:- Mr. Mohammad Ayub Kahn- Amendment No.44.

Mr. Mohammad Ayub Khan:- Sir, my amendment is:-

“Insert the words ‘and people of the backward areas of the State’ after the words ‘backward sections of the people’ in clause 23”.

Sir, if this clause is left intact the people of backward areas will be deprived of the facilities granted by this clause. This clause forms a part of the Directive Principles, which though not justifiable provides, nevertheless, an outline of economic and social policies that the people of this Country propose for themselves. Even if the courts are not empowered to enforce this principle, the insurmountable power of the people will get it enforced. Our people will also see to it that the Directive Principles are implemented. Now, as to the question whether any Government can curtail these principles I think the answer is in the negative. These principles, on the whole, constitute a programme of action. It is written in the preamble to the Constitution that we give this Constitution to ourselves. It is not any outside power that is imposing it in us. And since the Directive Principles are a part of the Constitution it is the duty of every Government to comply with them. It is in view of this importance of the Directive Principles that I have moved this amendment. We have to see whether the people of backward areas get any facilities under this clause. According to this clause special care will be

taken in the promotion of their educational, material and cultural interests and protection against social injustice. There is no denying the fact that there are backward classes like Harijans and Scheduled Castes, but it is also a fact that there are a number of illaqqas that have been declared as backward areas. Are Harijans the only backward people there and the rest all advanced?. For instance, Gulab Garh is a backward area and besides Harijans, Kashmiri's also live there. They are also backward. If a Kashmiri becomes a Minister we cannot say that all Kashmiri's have become advanced. The entire people of these illaqqas have remained backward because of the paucity of natural resources. The population comprises Kashmiris, Gujjars, Thakars, Rajputs and Brahmins and none of them can be called as advanced, they are equally backward. If you find a matriculate among the population of forty thousand people, how would you describe this State of affairs existing there.

Mr. Assadullah Mir:- He will be a figure among ciphers.

Mr. Mohammad Ayub Khan:- it would be an injustice to others to consider Harijans the only backward section of the people.

Mr. Assadullah Mir:- Hear, Hear.

Mr. Mohammad Ayub Khan:- Sir, it is not a matter of joke. My submission should be given due consideration. I will request the Hon'ble Members of the House to give a cool consideration to my amendment and I hope that they will realize that all people of backward illaqqas deserve to be given equal facilities in all respects. It is the intention of the House that backward section of the people should be benefited. Similarly, the conditions of the people backward areas should also be taken into consideration. Tomorrow if it is felt that some special provisions should be made for backward areas it will be objected to on grounds of being against the Directive Principles on the plea that the word "section" appears in the

clause and the word “area” does not occur. It is, by reason of this, that I move my amendment and hope that the Hon’ble Members will support it.

Kotwal Chuni Lal:- Sir, I have taken the floor to support the amendment moved by Mr. Mohammad Ayub Khan. It is a fact that the people of the far-flung hilly illaqa of Jammu and Kashmir have remained backward due to the inaccessibility of these illaqa and this backwardness is an important problem. When a principle has been laid down that facilities should be given to the backward people and endeavors should be made for their advancement, how is this objective sought to be achieved when the backward people of the far-flung hilly illaqa are not given any special consideration. These people will achieve no advancement unless they are given special privileges. There is no doubt that it is a clause of a general character but it is also fact that the inhabitants of these illaqa to whatever section they belong are backward. May be a person here and a person there is materially well off, otherwise the people are generally backward. I think it is very essential that provision should be made for the advancement of the people of these backward areas as been made for backward sections. Hence I support the amendment.

Mr. D.P. Dhar:- Sir, it was in view of the sentiments expressed by Mr. Mohammad Ayub Khan and the support of his amendment Mr. Kotwal Chuni Lal, that the Drafting Committee included this clause in the Directive Principles. If “backward section” conveyed the same meaning which is understood by some of us, it would be a separate issue. Fortunately, Mr. Mansukh Rai, who considers only Scheduled Castes and Harijans as backward, is not among us at this time. The meaning of the “backward section” is very clear here. It means those people, wherever they live, who are culturally, educationally and socially backward. This clause relates to

those sections of the people which are socially and educationally backward. I hope that in view of my submissions Mr. Mohammad Ayub Khan will not press his amendment. Even if his amendment is accepted it will be of no benefit except that it will make the clause rather cumbersome.

Mr. Mohammad Ayub Khan:- In view of the explanation of the Hon'ble Member to the effect that this clause covers backward areas also. I withdraw my amendment.

Mr. President:- Mr. Mohammad Ayub Khan desires to withdraw his amendment. Should I think that the House permits him to do so ?.

The amendment was withdrawn with the permission of the House.

Mr. President:- The question is:-

“That clause 11,12,13, 14,15,16,17,18 and 19 as amended and clauses 20,21,22, 23, 24 and 25 as these appear in part IV of the Draft Constitution do stand part of the Constitution”.

The motion was adopted.

Mr. President:-With this concludes our today's business. We will meet here again tomorrow at 11. A.M.

Note:- The House adjourned till Eleven O'clock on Thursday, the 1st November, 1956.

Thursday, the 1st November, 1956/16th Kartika, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar at 11, O'clock.

Mr. President:- (Hon'ble G.M. Sadiq) in the Chair.

S. Harbans Singh Azad:- Mr. President, Sir, the Members of the Constituent Assembly have taken a very serious view of the grave situation

created in the Middle East on account of armed aggression by Anglo French troops. The Members desire to request you, sir, that the House be adjourned for sometime, to discuss the situation and pass a resolution in this connection.

Mr. President: A request has been made by an Hon'ble Member of this House and if the other Hon'ble Members of this House are agreeable, then I might adjourn the House up to 11.30 A.M.

Voice:- Yes Sir, Yes Sir.

Mr. President:- The House stands adjourned and we shall meet again at 11.30 A.M.

Note:- The House reassembled at 11.30 A.M.

Mr. President:- According to the schedule we had to discuss the various sections of the parts I,V and VI of the Draft Constitution. As there is a very short time at our disposal we will today discuss sections 26 to 45 as appear in the Draft Constitution.

Now let us first take up the amendments.

(Note:- The amendments standing in the names of Shri Ram Piara Saraf, Sayed Ali Safvi and Sheikh Ghulam Rasool were withdrawn by them).

Mr. President:- We have received some amendments to section 26. The Notice of these amendments had been given by Mr. Ram Piara Saraf, Master Ghulam Ahmed and Kotwal Chuni Lal. All these amendments will be taken up together.

Mr. Ram Piara Saraf:- Sir, I beg to say that in section 36 after (.) in the last sentence the following may be added:-

“The Prime Minister shall be a person who enjoys the confidence of the Legislative Assembly”.

Sir, the meaning of the amendment, which I have moved is clear. I want that the words “the Prime Minister shall be a person who enjoys the confidence of the Legislative Assembly” be added to article 36. I think that by the addition of these words the meaning of this section in the Constitution will become definite and clear. In the present section 36, it is not shown clearly, as to who will be the person whom the Sadar-i-Riyasat will appoint as Prime Minister. We cannot afford to depend upon conventions in deciding such important matters. It is possible that Drafting Committee may say that we should in this respect follow Class B States where Prime Minister are appointed by the Governors. I personally think that without this amendment the meaning of this section is not clear and definite. The example of Travancore Cochin is before us. In the last election the P.S.P had no majority in the Legislature but the Governor invited its leaders to form the ministry. In our State democracy is at initial stage. We should not leave such important issue to be decided by convention. With these words I move my amendment.

Kotwal Chuni Lal:- Sir, I second the amendment moved by Mr. Ram Piara Saraf Sir, in section 36 it has been shown clearly as to who will be appointed as Prime Minister. In all the democratic States especially in England it is from the majority Party that the Head of the State especially in England it is from the majority party to form the Government. The same convention is being followed in India. Now-a-days in every State having a parliamentary form of Government constitution provides that the Head of the State must invite the leader of the majority party to form the Ministry. I am confident about the fact that the idea of this convention was in the minds of the Members of the Drafting Committee. It has been laid down in article 37 that the Council of Minister shall be collectively responsible to the Legislature. It

means that a person whom the Sadar-i-Riyasat appoints as Prime Minister shall have to face the Legislature, within six months after the forms his Ministry. The Ministry cannot continue unless it has the confidence of the Legislature. The same convention is being followed in India and England. In absence of any clear cut provision in this behalf there is a possibility that the Sadar-i-Riyasat may at any time appoint any person as Prime Minister of the State without considering the fact whether the person so appointed commands the majority in the House or not. I know that even if such a thing happens it will not continue beyond six months and at the most but still must not allow this possibility to happen. Like the constitution of Leader of the Majority party, who enjoys the confidence of the House, is appointed as Prime Minister. We can follow the convention as well as in this way we can put an end to the above mentioned possibility. It is also laid down in the “New Kashmir” that none executing the leader of majority party. Who enjoys the confidence of the people, shall be invited to form the Ministry. By adopting this amendment we will not only follow the New Kashmir, but will keep alive the spirit of the Indian Constitution as well. With these words I second the amendment.

Sardar Harbans Singh Azad:- Sir, I think that the amendment moved by Mr. Saraf and seconded by Mr. Kotwal, is not necessary. In the Draft Constitution, which has been presented by the Drafting Committee, the part relating to executive is in accordance with the pattern of Indian Constitution. In the draft many things have been left to convention. The Indian Constitution is based upon the British Parliamentary democracy and to a Draft Constitution the part relating to executive has been based upon Indian Constitution. There are many things in respect of which no arrangements have been made in the Constitution. It is not provided that only one who

enjoys the confidence of the majority can become the Prime Minister, because such matters are usually left to conventions. It has been provided in the Draft Constitution that all functions of the Sadar-i-Riyasat except under section 36, 38 and 92 shall be exercised by him only on the advice of the Council of Ministers. It is the function of the Sadar-i-Riyasat to invite the man who enjoys the confidence of the majority party to form the Ministry. If he invites a man who does not enjoy the confidence of the majority party then it will be impossible to run the Government. The purpose of the amendment is, that one who enjoys the confidence of the majority of the Members in the Assembly, should be invited to form the Government. It means that unless the House, commands the confidence of the majority of the Members of the House, no Prime Minister can be appointed. At the time of general elections, different political parties select their leader and this is an established convention that the Head of the State invites the leader of that party to form the Ministry, which has captured greater number of seats in the election. If Head of the State does not follow this convention then he will have to repent, because the person appointed by him as Prime Minister will be replaced by one in whom the majority party reposes party confidence. Unlike other States of India, the President does not nominate the Head of our State but we, ourselves elect him and therefore he cannot violate this democratic convention. In case he does not follow this convention, he can be removed from his office. Any person, who does not enjoy the confidence of the majority party who is appointed as Prime Minister by the Sadar-i-Riyasat, cannot successfully face the majority party in the House. Summoning of the Legislature cannot be postponed beyond six months because the Constitution provides that six months shall not intervene between the last sitting in one session and the first sitting in the next

Session. So, if the Prime Minister is from minority party then it will be impossible to have a stable Government. Sadar-i-Riyasat cannot the confidence of the majority in the House. According to convention only such a man can be appointed as Prime Minister who enjoys the confidence of the majority in the House, so if we do not trust him, it will mean that we do not trust our ourselves. I think that this amendment cannot serve any purpose. On basis of these reasons, I request Mr. Saraf and others that they should not press their amendments.

Mr. G. L. Dogra:- Sir, so far as the amendment of Mr. Saraf is concerned, the Drafting Committee has seriously thought over it and is of the opinion that the Prime Minister should be a person who enjoys the confidence of the majority in the Assembly. The Committee is of the opinion that not only the Prime Minister but every Minister of the Council of Ministers should enjoys the confidence of the Assembly. Adoption of this amendment will create very many difficulties. It will mean that so long as the House does not express its confidence in a particular Member, the Sardar-i-Riyasat cannot appoint him as Prime Minister. It will give rise to a strange situation.

The Sadar-I-Riyasat it always in knows of the fact as which is the majority party in the House. He is in touch with all the activities which take place in and outside the Assembly. He appoints such a person as Prime Minister who enjoys the confidence of the majority party. Even the president of India or the Sadar-I-Riyasat cannot deviate from this practice and they have to invite the leader of majority the Draft Constitution, procedure and substance of law are intermixed. When we read clauses 36 and 37 together, we come to know that these are quit exhaustive. I think that the proposed amendment will give rise to difficulties and it won't serve any purpose. With

these words I request and it won't serve any purpose. With these words I request Mr. Saraf and others that they should not press their amendments.

Mr. R. P. Saraf:- Sir, I want to withdraw my amendment.

Mr. President:- The question is that Hon'ble R.P. Saraf wants to withdraw his amendment.

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

Master Ghulam Ahmed:- I want to withdraw my amendment.

Mr. President:- The question is that Hon'ble Ghulam Ahmed wants to withdraw his amendment.

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

Note:- Shri Chuni Lal Kotwal, also withdrawn his amendment with the permission of the House.

Mr. President:- Br. Mansukh Rai.

Mr. Mansukh Rai:- Sir, I move that in Section 36 after the words, 'other Minister' the following may be added:-

“among whom at least one Minister of the Cabinet rank shall be an educated person, belonging and representing the Scheduled Castes”.

Sir, while framing the Constitution of a Country, all aspects must be thoroughly considered because even a small flaw in the Constitution can tell upon our future generation. Judging the Constitution from the political point of view it can be taken sacred and important as the 'Gita' or 'Quran' are guiding pillars for every man in every walk of life.

Mr. Syed Ali Shah Safvi:- On a point of order, Sir, Quran is a holy book and the Hon'ble Member compares it with the Constitution which is being framed by us. I think this comparison is not proper.

Mr. Mansukh Rai:- Hon'ble Members has misunderstood me. I said when we judge it from political point of view. What I want to say is, that among the Ministers one Minister of Cabinet rank must be from Scheduled Castes.

Our society has been divided in different castes i.e Brahmans, Rajputs, Khastries and the Harijans. It was the duty of the Harijans to serve the other castes and thus we remained backward both socially and politically. As our State is an integral part of India, so we must also follow the teachings of Mahatma Gandhi. We must also have the same facilities which the Harijans in other parts of India have been provided with. I may submit that the backwardness of any section of the people cannot be removed simply by saying that the bunds of the Ranbir Canal have been raised by two feet or that such and such road has been constructed. With that submission I move my amendment.

Mr. Ghulam Ahmed Dev:- Sir, I second the amendment.

Mahasha Nahar Singh:- Sir, I agree with the amendment moved by Mr. Mansukh Rai only to the extent of having a Minister of Cabinet rank from amongst the Scheduled Castes but I do not agree with the second part of his amendment which in my opinion is not correct. It is a fact that the Government has not provided all the facilities to the Harijans, which they needed but we cannot say the Government has done nothing for us. What the present Government is doing for us is really commendable. No doubt a part as laid down in the Indian Constitution adequate representation has not been granted to the Harijans in the Government services. In our State seats will be reserved for the Harijans only for five years while in India seats for Harijans will be reserved for ten years. The same procedure must be adopted in our State. It has also been laid down that Harijans will be granted representation on the population basis. Accordingly to the latest census population of the Harijans is only 75 thousand. So in view of these figures our present number of seats is better. According to census of 1911 the total population of the State was 32 lakhs and out of them the population of the Harijans was three

lakhs. On the one hand, the population of Harijans is decreasing. According to the census of 1931 the population of Harijans was 2 ½ lakhs. In the year, 1934 it was 2¼ lakhs and in the year, 1944 it came down 75 thousand. According to this population our representation will be next to nothing. If the population of the Harijans as per census the year, 1911 is raised by one and a half then alone the wishes of Harijans can be fulfilled to some extent. It is a fact that the Constitution, I think in view of this one consideration should be given to the proper representation of Harijans in the Upper House. In order to remove their backwardness it is highly essential not to ignore their exact population. The concession of five years as proposed in the Constitution should be extended to ten years and this make it at par with Indian Constitution.

Mr. Ghulam Qadir Masalah:- Sir, after listening to the amendment moved by the Hon'ble Member I come to the conclusion that every one is interested in the uplift of backward classes. The proposed amendment is only about Harijan class. We must not forget that before the present Government took over, these Harijans were living in a very bad condition. Mahasha Nahar Singh has admitted that the present Govt. has taken many steps for the uplift of this class Educational facility have been provided to them and the Government has also been liberal in granting scholarships to Harijan students. No one can loose sight of the fact that the Government takes interest in the uplift of backward classes. The Hon'ble mover through the proposed amendment wants this provision for Harijans in the Constitution. But if we make some provision for this class then we must not forget the other classes who also call themselves backward. For the information of the Hon'ble Members, I may say that the boatmen, that the Gujjars and the cobblers also think themselves belonging to backward classes. In the light of

all other things, I think that this amendment is against the very spirit of this constitution. So I will request the Hon'ble Members to withdraw his amendment.

Mr. G.L. Dorga:- Sir, I have gone through the amendment moved by Shri Mansukh Rai which I think raised two points. One is that one of the Ministers at least must be from Scheduled Castes and the second is that he must be an educated person. In the Draft Constitution it has been clearly stated that leader of the Legislature Shall form the Cabinet. There is no restriction in this respect in any constitution in the world. It will be the duty of the leader of the Legislature or his party, to select the Ministers for the Cabinet. With a view to ensuring the efficient administration the leader of the Legislature or has to make selection of the Minister. The question of presentation of every community in the Cabinet also taken in view. It is possible that any party having no member from the Scheduled Castes might come into power any time in future then this provision will clash with the next section 37. If the amendment is included in the Constitution, it will give rise to many difficulties. As every Minister must be having the Confidence of the House. The adoption of the proposed amendment would create difficulties for the majority party and might lead to crisis.

This amendment cannot prove useful so far as reservation of seats for the Scheduled Castes is concerned, this has already been done. It does not matter whether this reservation has been made for five or ten years. No such provision can be made so far as Cabinet is concerned. There is likelihood of creeping at of some difficulty when the reservation period regarding Scheduled Caste seats expires and then will no member from the Scheduled Castes. So many things which solely fall neither the responsibility of the majority party or not necessity from and out of the constitution. The majority

party is always alive to win the confidence of all sections living in the State not only in connection with the formation of the Cabinet but in other respects as well previously you will appreciate no seats existed for Scheduled Castes and it is now the National Conference Party which took steps in this behalf. Besides, our party nominated candidates from Scheduled Castes against general seats and made them successful. These people have made under oppression for thousands of years and it will take sometime to uplift these and bring them at par with other classes. We have made very effort to better the lot of these people, and we are sure that after five or ten years the people of these backward classes will rise to the level of other classes. If this amendment is included in the Constitution, there is very possibility of a crisis at any time. I would like to inform Shri Mansukh Rai that the Drafting Committee could not be in a position to propose from provision for reservation of seats, in the Cabinet for the Scheduled Castes. If any such thing would have been possible, then Dr. Ambedkar would also have done it. There is no such provision in the Indian Constitution, it was not at all. In the light of their fact I want that all such matters should be left to the party's care and we must impress upon the party that the backward classes must get proper representation. I would in the end request Mr. Mansukh Rai not to press his amendment.

Note:- The amendment was withdrawn by Mr. Mansukh Rai with the leave of the House.

Mr. President:- Mr. Mansukh Rai.

Mr. Mansukh Rai:- Sir, my amendment is about sub-clause (2) of clause 37. I beg to move that “Sub-clause (2) of clause 37 shall be omitted”.

Note:- The amendment was not seconded and could not be proceeded with.

Mr. President:- Mr. R.P. Saraf.

Mr. R.P. Saraf:- Sir, I do not want to move my amendment.

Mr. President:- Mr. Mansukh Rai.

Mr. Mansukh Rai:- Sir, the object of my amendment is that I want that the Government must pay proper attention to Scheduled Castes and backward Classes. So far Government has taken no action in this behalf. For the last nine years nothing has been done for the settlement of these classes. I have moved many resolutions and amendments, and have also submitted many schemes, but the Government took no action thereon. Even my questions were not properly answered. Further, I would like to say that, application to Jammu and Kashmir order, 1954 of the Constitution of India is in force since a long time; and assent has also been given to this order by the President of India but the same has not been supplemented yet. The provision in regard to representation of Scheduled Castes in Government Service is contained in it. The backward classes of India have got ahead in every walk of life but here we are still far behind. I want that it should be the duty of Prime Minister to let the Sardar-i-Riyasat know about the proper representation of Scheduled Castes in Government Services by the end of last year or after a period of six months. In this way the progress of the backward classes can be ensured and Mahatma Gandhi's wishes fulfilled. After all, truth prevails and one has to

yield before truth. With these words I move my amendment, before the House.

Mahasha Nahar Singh:- Sir, I second the amendment.

Mr. Chajju Ram:- Sir, I want to say something in support of the amendment. Mr. Mansukh Rai has stated facts. It is a fact that before the National Conference came into power some elements wanted to dominate on other classes and would not like to see other classes flourishing.

Under autocratic rule, people were crushed and no efforts were made to improve their lot. The views expressed by Mr. Mansukh Rai are correct. When we have doctrine of “NEW KASHMIR” before us, when we stand acceded to India and when India is spending lakhs of rupees for us there is no reason why the people should not prosper. The spirit of Mahatma Gandhi is working behind Indian Democracy. Mahatma Gandhi had remarked that freedom had no meaning unless all the different sections and more particularly the Harijans were on equal footing with other sections living in the State.

It is 2 years back that application order is in force here and some sections of this order show that either a Commission or an Officer ought to have been appointed to see whether Harijans of the State have due representation in different aspects of life. But in our State no such step was taken. All the orders of the Government of India, which through enforced in the State also since 1954 are in effective. It is generally said that if the Harijans are given due representation then the other backward classes of the State will also put forth the same demand. We also want that every class must have opportunities for progress. The Harijans in the past had no place in the Society. They could not even move with other people, nor could they take to any business activities. It shows that the lot of Harijans was worse.

Taking all these facts into consideration, one can easily endorse that the Harijans deserve support from the Government. We are happy that in the Draft Constitution provisions have been made for the benefit of the backward classes. There are still some points which have not been mentioned in the Constitution, if these are also laid down in the Draft Constitution, then we can proudly say that in our State every class has got equal chances for progress. With these words I second the amendment moved by Mr. Mansukh Rai.

Mr. G.L. Dogra:- Sir, it is Shri Muansukh Rai who is moving amendment after amendment today and I feel honored to reply to his arguments. I have just read the amendment of the Hon'ble member and have also listened spirit of his speech but there can be difference in regard to the way in which he has explained things. The amendment is about clause 44, which reads this.

“It shall be duty of the Prime Minister:-

- (a) to communicate to the Sadar-I-Riyasat all decision of the Council of Ministers; relating to the administration of the affairs of the State and proposals for Legislature;
- (b) to furnish such information relating to the administration of the affairs of the State and proposals for Legislation, as the Sadar-I-Riyasat may call for; and
- (c) if the Sadar-I-Riyasat so requires, to submit for the consideration of the council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council”.

Under this clause it has been proposed that the Prime Minister will be duty bound to inform the Sadar-I-Riyasat about the decisions of the Cabinet. The point raised by Mr. Mansukh Rai and supported by Mr. Chhaju Ram

naturally fall within the decision of the Cabinet. All the reports will be submitted to the Sardar-I-Riyasat and they will have a chance to consider over these decisions. The Sadar-I-Riyasat can draw the attention of the Cabinet to any matter if necessary. The amendment moved by Mr. Mansukh Rai appears to be unnecessary because there is nothing new in the amendment which is not already covered by the clause. No one will deny the causes stated by the Hon'ble Member as responsible for backwardness of Scheduled Castes but the National Conference has on the other hand been always trying to uplift the Scheduled Castes. Besides, the public leaders have also tried to remove this evil from our society and they have succeeded in their efforts. When I was a student in the College even in those days I remember Mahasha Nahar Singh and Bharat Chajju Ram were trying for the betterment of the Scheduled Castes. Both of them are conscious of the fact that they achieved success. The speeches made by these Hon'ble Members today are rather disappointing. They must repose confidence in the National Conference and the People in this behalf. Apart from making the provisions in the Constitution, we must make every other effort for the progress of backward classes. Nothing remarkable can be ascertained simply by submitting report to the Sardar-I-Riyasat. It was also been said that Government of India or the State Government have been slacking in enforcing the necessary sections regarding Scheduled Castes contained in India Constitution in the State. I think it is not correct to say so. We have taken, much interest in the betterment of Scheduled Castes and the commission appointed by Government of India has also done a lot. The mover of this amendment was also a Member of the Committee which chalked out the future programme for the betterment of the Scheduled Caste. This report of the said Committee was submitted to the Cabinet and the

Cabinet after endorsing the same has pushed it forward. The betterment of the Scheduled Castes as well as other sections ensured with. The progress and prosperity of our organization. So far as the object of this amendment is concerned it is already there in one form or the other in the Draft Constitution. I would request Mr. Mansukh Rai not to press his amendment.

Mr. G.M. Dev:- Sir, Mr. Mansukh Rai is not present in the House.

Mr. President:- I think it should be put to the House. The question is that Mr. Mansukh Rai has moved an amendment that:-

Note:- The amendment was put and negative by the House.

Mr. President:- The question is that Article 26 to 45 stand as part of the Constitution.

(**Note:-** The motion was adopted).

Mr. President:- Part 6th of the Constitution was also included in the order paper for today but the same could not be taken up today. This will be taken up on Saturday now. We now adjourned and will meet on 3rd November, 1956 at 11 a.m

Note:- The House then adjourned till Saturday, the 3rd November, 1956 at 11 a.m.

Saturday, the 3rd November, 1956/18th Kartika, 2013

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar at eleven O'clock.

Mr. President (Hon'ble G.M. Sadiq) in the Chair;

Mr. Ghulam Rasool Renzu:- Sir, I beg leave to present the report of the steering Committee.

According to the procedure, a piece of Legislation has to pass through three different stages before it finally passed, the first being the stage of its introduction, the second, that of its consideration, when a discussion is held and amendments are moved therein and the third stage is when it is finally passed. But so far as the Rules of Business and Procedure are concerned, there was a lacuna therein, i.e., there was no provision, especially for aforementioned third stage in the Constitution. The steering Committee considered this question and recommended that:-

After Rule 69 of the Constituent Assembly Rules the following Rule shall be inserted, namely:-

“69-A. When a motion that the Constitution be taken into consideration has been carried and the amendments to the Constitution, if any, moved have been considered, any member may move that the Constitution be passed.

Provided that the President may, before allowing the motion to be made, refer this Constitution as it emerges after its consideration clause by clause under Rule 69 to the Drafting Committee referred to sub-rule (1) of rule 64, with instructions to carry out such renumbering of the clauses, such revision of punctuation and such revision and completion of marginal notes thereof as may be necessary and to recommend such formal or consequential amendments to the Constitution as may be required.

(2) When the Constitution has been so referred to the

Drafting Committee and the Committee has presented its report, any member may move that the constitution as revised by the Committee be passed.

(3) To a motion made under sub-rule (1) or sub-rule (2) no amendment may be moved which is not either formal or consequential upon an amendment made after the Constitution was taken into consideration”.

Sir, the Constitution of a Country is the basic law for that Country. It also has to pass through three stages. In absence of a provision in the Rules of Business and Procedure for the third reading it would not have been possible to adopt the Constitution in a proper manner. The steering Committee realized this and after consideration has framed a comprehensive clause which I have put before the House. I hope the House would accept it.

Mir Qasim:- Sir, I second the motion.

Mr. President:- Now there is an amendment before the House.

Note:- The Hon'ble President read out the proposed amendment to the House. The Hon'ble President then put the question, and the amendment was adopted unanimously by the House.

Mr. President:- Today clauses 46 to 91 of part VI of the Draft Constitution will be discussed first of all. Clause 92 will be brought under discussion on some future date, Notice of three amendments has been received in respect of clause 4, and two are from Mr. Mansukh Rai and one from S. Kulbir Singh. They will please move their amendments.

Mr. Mansukh Rai:- Sir, I move that : "in Clause 49 under the heading 'Explanation' the words has the same meaning as in sub-section (2) of section 47 occurring after the word 'Population' may be deleted and the words three lakh ninety six thousand as adopted in the Schedule Castes Committee's meeting held on 23rd February, 1956 which was appointed under Cabinet order 183-C of 1956 dated: 27th January, 1956" be substituted therefor.

Sir, it is necessary for raising the standard of living of a people to safeguard their rights. To achieve this object it is also necessary that their census figures should be accurate, because it is the population on the

basic of which a community is formed. Now I want to say something about the purpose of this amendment.

Note:- The Star Mark indicates that the speech was delivered in Urdu and the English version thereof has been incorporated in the proceedings.

Sir, I have read in a book the following line which I quote here:-

“Gandhi may die but Gandhism will live for ever”. Good men may die but their principles live for ever and serve nation as a beacon light. Their principles are followed by the world. The principles set by our great leader, Mahatma Gandhi, are being followed all over the world, because they are based on absolute truth. He has said that no living creature should be hurt by word or deed. He prayed to God for only one thing i.e. he should be reborn in some Harijan family so that he could serve them and look to their day to day problems. By following this principle we have to prove to the world what the object is in view of which the question of population is being raised. We must follow this principle.

Sir, when the Constituent Assembly was convened, only three seats were reserved for Harijans without taking into consideration their population. Besides, these seats were reserved by the Government in a haphazard manner regardless of their population strength in different Constituencies. We are not satisfied with this representation and we cannot say what the reason for this was. It is sheer injustice to Schedule Castes that they should be represented by only three members at such a time when the constitution of the State was being framed. Hon’ble Dogra has said that even Mr. Ambedkar who was the Chairman of the Drafting Committee when the Indian constitution was being framed did nothing for the Harijans. Whatever the case, it is regretful that not even a single Harijan member was taken in the Drafting Committee here. Had any Harijan been included in the Committee, there could arise no occasion for introducing such amendments. However, we have no complaint against anybody. We want to live in peace

and be friends with everybody. We will surely apologize if we have hurt anybody's feelings. And if any body has hurt our feelings, we will forgive him.

Sir, accordingly to the census of 1947, Harijans would get only two seats although they have already got three. There is a dispute going on over this issue for the last six years. During all this period a Scheduled Castes Committee and then a Backward Classes Committee was set up. The former Committee consisted of four Harijan members who are present in the House. In its second meeting during the course of its deliberations it was resolved that census should be conducted accurately, because there was some discrepancy in the actual figures of the Harijan population and the census figures. The population of Harijans was put at 3 lakhs and ninety six thousand. This decision of the Committee was accepted by us. But according to the Draft Constitution we will get only two seats on the basic of our population. If we impartially make calculations, we will find that Harijans and Hindus have equal population in Jammu.

Mr. Mohammad Ayub Khan:- How did the census of 1911. I will tell you what treatment was meted out to this section of the people later on. In 1911, the population of the Harijans was shown more then that shown later in the year, 1921. In fact, the population has grown further since then. But a continuous decrease appears to have been recorded in this behalf. However, all that happened was in the autocratic rule, when no head was paid to such things.

If we have to bring the Harijans at par with other section of the people, we should properly conduct the census and reserve seats for them according to their population.

So far we have been talking about the grant of civil rights to Harijans, but in practice they have always been suppressed, especially by the Police. This does not behave a country in this age of democracy. Besides, we should not judge a person wrongly; if a person shows an act of benevolence he is called a spendthrift; if he is polite, he is said to be lacking in self respect; if he is cheerful, he is called a buffoon; if he talks, he is termed as a chatterer; if he keeps mum, it is said that he is a fool; if he has rags on his body, they will call him a miser.....

Mr. President:- I had impressed upon the members to keep in view the time at our disposal, but most of them do not pay attention to this. Moreover, I have not been able to follow the Hon'ble Member since he rose to speak. I would ask him to speak on his amendment.

Mr. Chajju Ram:- Sir, I would like to know whether it is not a fact that the Hon'ble Member had expressed through a number of telegrams that the Harijans of the State were the following of Buddhism.

Mr. Mansukh Rai:- In a democratic State a person can follow any religion. If the Hon'ble Member is jealous of my being a Buddhist, he can also follow Buddhism. So far as the alleged telegrams are concerned I ask the member to prove that I had sent the said telegrams.

Sir, when we demand our due share they say that Harijans want to be separated from Hindus and that they would do so anytime. This is all wrong.

Now, I except that the leader of the House would today make an announcement regarding the reservation of seats for the Harijans.

Mrs. Ishar Devi Maini:- Sir, I support the amendment moved by Mr. Mansukh Rai. Harijans are very backward and it is the National Conference that gave them their rights which they were deprived of so far. In Maharaja's rule the Harijans had only two seats in the Assembly, but as

against that they now occupy four seats. It is all due to the efforts of the National Conference. Besides, this organization has fought for the reservation of seats for the women.

I request the leader of the House to reserve at least eight seats for women, four from Jammu and four from Kashmir in the next general elections.

With these words I support the amendment.

Mr. Bhagat Ram Sharma :- Sir, I have been able to understand what Mr. Mansukh Rai has said but not what Mrs. Maini said in her speech. While speaking on his amendment Mr. Mansukh Rai said that the population of Harijans as shown in the latest census is incorrect. To prove the incorrectness of that census he has referred to the census conducted in 1911, 1921 and 1931. According to his statement, the population of Harijans was larger in 1911 and he fail to understand how it decreased gradually from the year, 1921 to 1941. The reason is, as Mr. Chajju Ram has said that Mr. Mansukh Rai had in 1921, while the census was being conducted sent telegrams to the then authorities to the effect that all the Harijans should be entered in the census of Bodhs.

Mr. Mansukh Rai:- Sir, they will have to prove that I had sent the telegram referred to by them.

Mr. Bhagat Ram Sharma:- Sir, this Act was disclosed by Mr. Chajju Ram and the Hon'ble Member should challenge him to prove it. Although my information is second hand, yet I have no reason to disbelieve Mr. Chajju Ram.

Sir, my submission is that other Harijan friends had also issued directions to Harijans as to the religion they should get entered against their names in the census papers from 1911 onwards. Harijans have deliberately declared themselves as members of different religions. Besides, many of them had actually embraced Christianity, some adopted Sikhism and

Buddhism and some of them because the followers of the Arya Samaj. In my Constituency there were two seats namely, Bayar and Bashist. The latter began to call themselves as Rajputs. These are the reasons due to which the population of Harijans decreased. It is absolutely incorrect to say that the population of Harijans is not kept in view or that they are deliberately shown in books as followers of different religions. My submission is that they have merged in other religions of their own accord resulting in the decrease in their total number. Their population as shown in the last census is correct and in proportion to that population seats should be reserved for them.

With these words I oppose the amendment.

Major Piara Singh:- Sir, I also want to say something in this behalf. In February, last we had received a proposal from the Government of India in which they had provided some funds for the uplift and betterment of the Scheduled Castes and the Backward Classes. The Jammu and Kashmir Government also set up a Committee to draw up schemes for this purpose. I was appointed as the Chairman of the Committee. In the Committee Harijans were also taken as Members. In the first meeting of the Committee objections were raised that the amounts received from the Government of India for the Scheduled Castes during the first two years were not utilize proportionate to their population strength in every Tehsil. For instance, it was said that more amounts were spent in R.S.Pura Tehsil then those in Reasi Tehsil. After discussing the point as to what the basis for distribution of the amounts should be, it was decided that population should be made the basis in this behalf. But according to that decision, the Harijan Members of the Committee got an opportunity to produce exaggerated figures. It therefore, became a problem for me to know the right method for distributing the amounts. But allocations were, later on, made in proportion to the figures produced before the Committee and schemes were draw up and submitted to the Government. However, the correctness or otherwise of the figures of population produced by the Members does not matter, because

these figures were invited to form a basis for the genuine proportion in regard to distribution of amount for the schemes.

Mr. G.M. Bakhshi:- Sir, so far I understand, Mr. Mansukh Rai has moved this amendment because he does not accept the correctness of the figure of population of the Harijans as shown in the Census Report. He has referred to the census of 1931 and 1941, the Reports of which are before me also. A perusal of these reports will show that there is, of course, slight variation in the figures, but it is not to the extent as Mr. Mansukh Rai has stated. I have taken the census of 1941 as the basis for the preparation of the Draft Constitution and for other purpose. It is impossible to amend to amend it now. However, we can correct the clerical mistakes or errors, if there are any, in the Census Report of 1941. I may submit for the information of the House that the following sub-castes are shown under the Head “Scheduled Castes” in the Census Report of 1941, namely Barwal, Bashit, Batwal, Chamar, Chubre, Doom, Megh, Saryare, Wattal etc. No one has been left out. Some people from Kashmir are also included in it although their number is very small.

What my friend, Mr. Bhagat Ram Sharma has said is correct to some extent. There are a number of applications with me in which Harijans have demanded that they may be included in the category of Rajputs.

It is practically impossible to correct the figures or to conduct census afresh at this stage. It is not also possible to accept reports of any Committee as a basis for this purpose. If we, however, take some other data instead of the census figures, even then it will not serve the purpose for which the amendment has been moved. We have accepted the census of 1941 as a basis for the elections to the Assembly and for the preparation of the Constitution. Since then no census was conducted. Anybody who challenges the correctness of that census will require a long time to prove it. So far as the National Conference is concerned, it has always made efforts and shall do so in future also, to ensure that Scheduled Castes and Backward Classes

get due representation. Every community is seeking due representation. For the information of the Hon'ble Member, I may submit that seats have been reserved for Harijans everywhere in India, and here also we are providing for the reservation of seats for them.

My Harijan friend has made a reference to Gita Ji and the teachings of Gandhi Ji. We have great respect for them. I assure my friends that we will always try to fulfill their desires. Now I request the Hon'ble Member to withdraw his amendment and not to press it.

Mr. Mansukh Rai:- Sir, I do not contradict what Hon'ble Bakhshi Ghulam Mohammad has said. I have already said that the Harijans are prepared to sacrifice everything for the nation. Bakhshi Sahib has said that population will be the criterion for giving representation to the people, but at the same time, he has expressed his inability to change the census figures. He is not prepared to accept the population of the Harijans at 3 lakhs and ninety thousand. I would request him to announce as to what number of seats would go to each community. I admit that it is not possible now to conduct fresh census and thus reserve seats for Harijans, Sikhs and other communities accordingly. He can, however, declare as to what number of seats is being reserved for the Harijans and the Sikhs.

However, on the assurance given by him I beg leave of the House to withdraw my amendment.

Mr. President:- The question is that Mr. Mansukh Rai seeks permission to withdraw the amendment moved by him. Does the House permit him?.

Note:- The amendment was withdraw with the leave of the House.

Mr. President: - S. Kulbir Singh.

S. Kulbir Singh:- Sir, the amendment to clause 49, of which I have given notice, is before the House. In this connection I would like to draw the attention of the House to the report it was clearly stated that to ensure proper

representation of the Backward Classes in the Assembly all possible measures would be adopted. Not only has this assurance been given now in the Basic Principles Committee's Report, but many years ago, when the National Conference, the major political party of the State was determining the interests of all sections of the people in the future set up of the Country such a promise was held out to them. So far as the Sikhs are concerned, it was promised in clear terms that their demand would be concede to and seats would be reserved for them in the Assembly.

The Population of the Sikh community is scattered all over the State and it would create difficulties for them to send their representatives to the Assembly from a Constituency on the basis of population. According to the decision of the National Conference and also in view of the report submitted by the Basic Principle's Committee we were assured that the population of the Sikhs being scattered here and there every possible effort would be made to ensure their due representation in the Assembly.

Sir, the most important fact which demands of us to take proper care of this section is that a population of 45 thousand of Sikhs from Muzaffarabad and Poonch Districts has been displaced due to the tribal raids in 1947. As a result of this, a large section of the Sikh population was scattered in the different parts of the State. There is, however, no doubt that every effort was made to solve their problem but even after their rehabilitation, they have not still been able to adjust themselves to the conditions peculiar to them. Consequently, they have been left behind in every walk of life. Their condition has deteriorated, especially in the economic and educational fields. One more reason for this deterioration is that they are a cultural minority. No doubt the Government will properly guard their interests, but as this community is scattered the Government will have to face difficulties in this respect.

Sir, the Sikh community has always adhered to the programme of NEW KASHMIR and fought gallantly for the success of the National Conference, thus enabling it today to present the Draft Constitution. But it is

a grim reality that this minority community is still facing a number of problems.

Sir, this Draft Constitution provides for the reservation of seats for the Harijans for a period of five years. Similar provision should have been made for the Sikh minority also which is facing difficulties created by their economic Backwardness. For instance, the Sikh population of Baramulla received a setback after the raids. Therefore, to improve the condition of Sikhs as a whole, it is desirable to reserve seats for them in both the Legislative Assembly and the Legislative Council so that they may also be able to work in union with other communities and equally contribute in the development of the State. With these words, Sir, I move that a provision for the reservation of seats for the Sikhs be made in the Constitution.

S. Harbans Singh Azad:- Sir, I had put in a note of dissent on the Report of the Drafting Committee wherein among other things, I had recommended that seats for the Sikhs should be reserved in the Legislature for a specific period.

Mr. Moti Ram Baigra:- Does the Hon'ble Member support S.Kulbir Singh?.

S. Harbans Singh Azad:- It is obvious that I have risen to support Sardar Kulbir Singh.

Sir, I also propose an amendment; two seats in the Legislative Council should be reserved for the Sikhs.

In the connection I may submit that as the population of the Sikhs is scattered throughout the State, it is just possible that not even a single Sikh may be returned in the coming elections. So far as the past record of the National Conference is concerned it would show that in the last general elections three Sikh candidates stood on the National Conference tickets of the Constitutional guarantee. We should talk in this House irrespective of party affiliations.

The Sikhs of the State have made sacrifices in the fight for the national freedom, they were sent to jail and flogged, they were sentenced to pay fines and they paid these. The national demand, which the National Conference had submitted to the then Government in 1983, also contained the following:-

“that the election to the Legislature shall be made in the basis of joint electorates. Seats should be reserved for the minorities and all the safeguards should be guaranteed to them in the Constitution for the protection of their Legislative, linguistic, religious, cultural, political and economic rights according to the Principles accepted by the Indian National Conference from time to time”.

Major Piara Singh:- What books is this?

(The Member was reading out from some book).

S. Harbans Singh Azad:- “National Demand”.

Mr. S.L.Saraf:- Were these demands put by some recognized body ?.

S. Harbans Singh Azad:- Yes sir, by the National Conference. I am sure that the National Conference was a recognized body and the “National Demand” memorandum was signed by three of the present Cabinet Members in addition to others.

Mr. S.L. Saraf:- It might be in their individual capacity.

S. Harbans Singh Azad:- It was a National Demand signed by Saraf Sahib, Bakhshi Sahib and Sadiq Sahib etc., Not in their individual capacities but as Members of the National Conference High Command.

We do not agree to the principle of weight age. In 1944, the National Conference adopted the programme of ‘NEW KASHMIR’ as its guiding principle. In article 28 of this programme is clearly laid down that two seats

each will be reserved during the transitional period for Harijans, Kashmiris Pandits and Sikh communities. It reads as follows:-

“Franchise shall be equal, every citizen shall take part on equal basis, every citizen shall have one vote, provided that during the transitional period Sikhs, Kashmiris, Pandits and Harijans shall be provided with two reserved seats each and for it is purpose they shall exercise a second vote”.

These were the promises made by the National Conference.

A resolution was moved in the House last year and while speaking on that resolution I had reminded the National Conference about the above mentioned promises. Replying to the discussion on the resolution the Leader of the House. Who is also the President of the National Conference and the Prime Minister of the State said:-

“.....as far the National Conference is concerned, he (S. Harbans Singh Azad) has referred to Article 28 of NEW KASHMIR. Nobody can deny that and we are committed to that”.

Sir, this was the promise made by the Prime Minister. Today, when we are framing the Constitution of the State we want to know whether the promises held out by the National Conference are being materialized through it. I do not think it would amount to communalism or un-secularism of some seats are reserved for the minorities for the period of transition. On the contrary, it would strengthen their confidence. After some years this reservation will come to an end. A provision has been made in the Constitution for the reservation of seats for Harijans for a period of five years and on the termination of that period the provision will automatically cease to exist. There would be no difficulty if a similar provision is also made for the Sikh Community.

Mr. Ram Piara Saraf:- Does the Hon’ble Member want this reservation to be made in the Upper House or the Lower House?.

S. Harbans Singh Azad:- Sir, the Hon’ble Member knows as to what my amendment seeks.

Sir, there were some submissions which I had to make to the House. I would request the House, especially its Leader, that this unanimous demand of the Sikhs be concerned to.

Mr. G. M. Bakhshi:- Sir, I have attentively heard what S. Kulbir Singh has said while moving his amendment and what S. Harbans Singh Azad has spoken in support of that amendment. In their speeches they have referred to the NATION DEMAND and the NEW KASHMIR. In article 28 of the NEW KASHMIR, Sikhs, Kashmiri Pandits and Harijans have been declared as weaker sections of the people. So far as our commitments are concerned, we stand by them and I assure the House that the National Conference will in future also abide by these communities in this respect.

It is a fact that the Sikhs are scattered and do not live as a community concentrated at one place, especially since 1947. This problem is not faced by my learned friends alone; we also realize its acuteness.

So far as the reservation of seats is concerned, it has been kept in view while drafting the Constitution which is based on the Principle of secularism. A secular Constitution does recognize different peoples and different classes of people but to make any provisions for representation of or reservation for people on grounds of religion cuts at its very roots. A Constitution is a sacred document and to adhere to the principles on which it may be based is more important than any other thing such as the reservation of seats and the period for reservation. Both of these friends and S.Chela Singh also, will agree with me on this point. I hope they will, because they have all along fought and made sacrifices for establishing a secular State.

Sir, there was no reservation of seats for the Sikhs or the Kashmiri Pandits when we fought election in 1951. In spite of that three Sikh gentlemen namely, S.Harbans Singh, Azad, S.Kulbir Singh and S.Chela

Singh were returned to this House. Similarly three Kashmiri Pandits, i.e Mr. Sham Lal Saraf, Mr. D.P. Dhar and Mr. Janki Nath Kakroo are also the Members of this House. So far as the Scheduled Castes are concerned, we have not reserved seats for them on any religious grounds. The Constitution of India provides for the reservation of seats for them in the Indian Parliament for a period of ten years. It is in accordance with that spirit that we have made reservation for the Harijans for a period of five years. Even at present they are occupying four seats in the Assembly.

I may again submit that the National Conference stands by its commitments, and to ensure the fulfillment of these commitments, it is essential to strengthen the National Conference. As the President of the National Conference, I assure my Sikh friends that the question of their proper representation in both the Houses of the Legislature will be kept in view. We realize the difficulties faced by the Sikhs which have been stated by our friends, but they should also realize that we cannot act against the basic principles of the Constitution. If we did so it would be to the great disadvantages of the Country.

I once again assure them that the representation of the weaker sections of the people would be kept in view in the next general elections. And if the National Conference again comes to power, which, we hope, it will come, we will remove all the defects in the nomination of Members.

I hope with this assurance my Hon'ble friends will withdraw their amendments and not press these.

S.Kulbir Singh:- Sir, I want to withdraw my amendment.

Mr. President :- The question is that S. Kulbir Singh requests for permission to withdraw his amendment. Should I think the House has granted him the permission?

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

Mr. President:- Mr. Mansukh Rai.

Some Voices:- Sir, he is not present.

Mr. President:- There are twelve amendments in respect of clause 50 of the Draft Constitution, the notice of which has been received from the following Hon'ble Members:-

1. **Mr. Mansukh Rai;**
2. **Sardar Kulbir Singh;**
3. **S. Harbans Singh Azad;**
4. **Agha Sayed Ibrahim Shah;**
5. **Mr. Ram Chand Khajuria;**
6. **S. Harbans Singh Azad;**
7. **Mr. Mohammad Ayub Khan;**
8. **Mr. Ghulam Ahmed Dev;**
9. **Mr. Mansukh Rai;**
10. **S. Kulbir Singh;**
11. **Mr. Ram Chand Khajuria; and**
12. **Mr. Mansukh Rai.**

Before these amendments are moved I would draw the attention of the House to the fact that the Hon'ble Members do not keep in view the time factor. I, therefore, fix a maximum of five minutes for each member who would like to speak on these amendments. They should please note it.

Mr. President:- Mr. Mansukh Rai.

Some Voices:- Sir, he is not present in the House.

Mr. President:- S. Harbans Singh Azad.

Please move both the amendments standing in your name.

Sardar Harbans Singh Azad:- Sir, I move:-

“(i) that a further proviso be added to sub-clause (2) of clause 50 of the Draft Constitution, namely:-

Provided further that of the Members so elected at least one shall be a Sikh who is a resident of Kashmir Province”.

“(ii) that a further proviso be added to sub-clause (2) of clause 50 of the draft Constitution, namely:-

Provided further that of the Members so elected at least one shall be a Sikh who is a resident of Jammu Province”.

Sir, I have already made my submission so far as reservation is concerned. If, however, the House does not approve of reservations in the Legislative Assembly, my honest opinion is that there would be no difficulty in providing for the reservations in the Legislative Council, because for this purpose there will be no necessity of delimiting the Constituencies. This Council is invested to the State and no represent various interests. My submission, therefore, is that one seat each in Jammu and Kashmir Provinces may be reserved for the Sikhs.

I hope the House will have no objection in accepting there amendments.

Sardar Kulbir Singh:- Sir, I second it.

Mr. Ram Chand Khajuria:- Sir, I do not want to move my amendment.

Sardar Kulbir Singh:- Sir, I do not want to move my amendment.

Mr. President:- Syed Ibrahim Shah.

Agha Syed Ibrahim Shah:- Sir, I move:-

“that the words ‘and at least one be a resident of Kargil Tehsil’ be added to the proviso to sub-clause (2) of clause 53”

Sir, there is no doubt that the resident of our area have greatly been benefited during the present regime and that a number of concessions have been granted to them, but what I want is that the same privileges should be granted to Kargil Tehsil as are being provided for Ladakh.

Sir, it may, not be out of place to mention here that the people of Kargil have suffered a lot, especially during the Pakistani raids. When, at that time, the Indian Army fought the Pakistani raiders about a thousand ponies were requisitioned by them. All these animals were killed in the fight. On the contrary, not even a single human being or animal from Ladakh was killed in that battle. So far as the population of Kargil is concerned, it is about 42,500. On the other hand, only about six thousand Muslims, four thousand Christians and twenty six thousand Bodhs comprise the population of Ladakh which is represented by a Deputy Minister. I do not grudge it, what I want to point out is that no seat has been reserved in the Legislative Council for a Member from Kargil Tehsil while one seat has been provided for Ladakh. Kargil Tehsil is also ignored when Budget grants are sanctioned for Ladakh.

Sir, Ladakh district has become a burden on us. This district is progressing at our cost. I want that the name of this district, wherever it occurs, should be deleted and Kargil substituted for it.

I hope a seat will be reserved in the Legislative Council for a Muslim Member for Kargil Tehsil.

Raja Mohammad Afzal Khan:- Sir, I second it.

Mr. G. L. Digra:- Sir, I do not want to say anything about the amendment moved by Agha Syed Ibrahim Shah. In this amendment he has referred to clause 53 of the Draft Committee. Actually it is clause 50. There is some error in the re-numbering of the clauses. However, so far as the Drafting

Committee is concerned, it has no objection if a member from Kargil Tehsil is taken in the Legislative Council.

Mr. President:- Sarder Harbans Singh Azad.

Sardar Harbans Singh Azad:- I do not want to press my amendment in view of the wishes of the House.

Note:- Amendment Nos. 1 & 2 standing in the name of S. Harbans Singh Azad were withdrawn by him with the permission of the House.

Amendments standing in the name of the following Members were not moved by them:-

- i. Mr. Mohammad Ayub Khan;
- ii. Mr. Ghulam Ahmed Dev;
- iii. Mr. Mansukh Rai (Absent);
- iv. Mr. Kulbir Singh;
- v. Mr. Ram Chand Khajuria; and
- vi. Mr. Mansukh Rai (Absent)

Mr. President:- Now we come to clause 53. There are three amendment notices of which have been received from the following Members:-

- i. Mr. Ram Piara Saraf;
- ii. Mr. Chuni Lal Kotwal;
- iii. Raja Mohammad Afzal Khan;

Mr. President:- Raja Mohammad Afzal Khan.

Raja Mohammad Afzal Khan:- Sir, I move:-

“that is sub-clause (2) of clause 53 after the words ‘from time to time’ the words ‘when such situation as mentioned in clause 92 arises’ be added”.

Sir, this is only a literal amendment and I request that this may be accepted.

Mr. Jamaat Ali Shah:- Sir, I second it.

Mir Qasim:- Sir, the Hon'ble Member wants that the words 'when such situation arises' be added to the sub-clause referred to by him. But when the words 'from time to time' already exist in the sub-clause, I do not think there is any necessity of making any addition to it. I would request Raja Sahib to withdraw his amendment.

Raja Mohammad Afzal Khan:- Sir, after the explanation given by Syed Mir Qasim this amendment does not seem necessary. I beg leave to withdraw this amendment.

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

Mr. President:- Mansukh Rai;

Note:- The Hon'ble Member was not present in the House.

Mr. President:- Bhagat Chajju Ram.

Bhagat Chajju Ram:- Sir, I move:-

“that the following provisions under the heading ‘Special Provisions relating to certain classes’ shall be inserted as Part VII after Part VI (Legislature) of the Draft Constitution, namely:-

“(1) **Reservation of seats for Scheduled Castes:-** There shall be reserved in the Legislative Assembly and the Parliament of India for the Scheduled Castes of the State a number of seats in the Assembly as the population of the Scheduled Caste bears to the population of the State.

“**Explanation:-** In this sub-section:-

(a)“population” has the same meaning as in sub-section (2) of section 47; and

(b) “Scheduled Castes” means the castes, races or tribes or part of or groups within, castes, races or tribes which or for the purposes of the Constitution of India deemed to be Scheduled Castes in relation to the State under the provisions of Article 341 of that Constitution.

(2) The provisions of sub-section (1) shall cease to have effect on the expiration of period of ten years from the commencement of this Constitution:

Provided that such Cesar shall not affect any representation in the Legislative Assembly unit the dissolution of the then existing Assembly.

(3) The claims of the Members of the Scheduled Castes shall be, in proportion to their population, taken into consideration, constitutently with maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the State;

(a) There shall be a Special Officer for the Scheduled Castes to be appointed by the Sadar-i-Riyasat.

(b) It shall be the duty of the Special Officer to investigate all matters relating to safeguards provided for the Scheduled Castes under this Constitution and report to the Sadar-i-Riyasat upon the working of those safeguards at such intervals as the Sadar-i-Riyasat shall cause all such reports to be laid before the Legislative Assembly.

(4) (a) The Sadar-i-Riyasat may by order appoint a commission consisting of such persons as he think for to investigate the conditions of socially and educationally backward classes within the territory of the State and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the State to remove such difficulties and no improve their condition and the order

appointing such commission shall define the procedure to be followed by the commission.

(b) A commission so appointed shall investigate the matters referred to them and present to the Sadar-i-Riyasat a report setting out the facts as found by them and lake such recommendations as they think proper.

(c) The Sadar-i-Riyasat shall cause a copy of the report so presented together with a memorandum explaining to action taken thereon to be laid before the Assembly”.

Sir, I have congratulated the Drafting Committee for making provisions for the reservation of seats for the Schedule Castes. They have realized that to bring the Scheduled Castes at par with other classes of people, it is essential to grant them special concessions. But as regards the period of five years for which reservations have been made in the Draft Constitution. I may submit that is very short. The purpose underlying this reservation cannot be achieved within such a short period. I do not think the Drafting Committee has given any consideration to this point. The reason for this seems to be that the whole position as regards the Scheduled Castes has not been made clear to them. There is a big gap between the social and economic level of Harijans and that of the other classes. It cannot be removed within a period of five years as it is a very wide one. Before making any provision for the period of reservation we shall have to see the pace of progress of each class. For instance, if a traveler is ten miles ahead of another traveler on the same road and in order to ascertain when the latter would overtake the former, it is essential to assess their speed. I think I have made the point clear that the speed with which measures to end the

backwardness of Harijans are taken, cannot ensure their overall progress within a period of five years.

Sir, as regards the progress of Harijans in the field of services, I may quote an example. One Mr. Anant Ram, who is a Harijan has not been provided with a permanent post for the last so many years although he is the first graduate from amongst our class. During the period of his temporary service, a number of persons who were recruited subsequently have since been promoted to the posts of Deputy Commissioners. There is another Harijan friend of ours who was appointed as Ranger a long time ago, but since his appointment he has received no encouragement while those who were junior to him have been promoted to higher posts. May I ask if this is the speed of the progress of the Scheduled Castes?. If it is so, the provision of five years, reservation would be meaningless.

I would request, Sir, that the House should fix a term of ten years instead of five as provided in the Draft Constitution.

Mahasha Nahar Singh:- Sir, I support the amendment moved By Mr. Chajju Ram and also congratulate the Drafting Committee for making special provisions in the Draft Constitution for the Scheduled Castes.

Sir, a study of the Draft Constitution shows that there is still a great necessity for the progress of Harijans. But what can the Scheduled Castes achieve within a short period of five years. During the last four years we have seen that out of sixty candidates for Naib Tehsildar's posts not even a single candidate is a Harijan. A number of Sub-Inspectors of Police were recruited during this period, but only two of such posts went to Harijans. Similarly, there are other departments.....

Hon'ble Ghulam Mohammad Bakhshi:- Sir, Mr. Chajju Ram has moved an amendment to a clause of this Constitution. The Hon'ble Member should

restrict his speech to that amendment. He should know that this is not the session of the Legislative Assembly where the working of various Departments could be discussed.

Mahasha Nahar Singh:- Sir, my speech relates to the amendment. My submission is that the period of five years should be raised to 10 years so that the Harijans in the State Could be encouraged in the same manner as in India.

While replying to the discussion on the amendment moved by Mr. Mansukh Rai the Leader of the House had said that he had received a number of applications wherein Harijans had declared themselves as Rajputs. I would like to know what the number of those people is and whether they have been included in the Rajput Caste.

With these words I support the amendment moved by Mr. Chajju Ram.

Hon'ble Ghulam Mohammad Bakhshi:- Sir, I do not agree with the amendment which seeks that the period of reservation should be raised from five years to ten years. The arguments advanced in this behalf are not logical and have no bearing on it. The Hon'ble Members have referred to the Constitution of India. So far as the clause under discussion is concerned, it is in conformity with that of the Constitution of India. It would not be desirable, therefore, to raise the period provided for. We shall have no objection to do so, if such a provision is made in the Constitution of India. But it would be wrong to invoke the Indian Constitution on the one hand and on the other, demand a longer period than that provided therein. I would request the House to pass the clause as drafted by the Drafting Committee.

The Star Mark indicates that the speech was delivered in Urdu and the English translation thereof is incorporated in the Debates.

Mir Qasim:- Sir, the Hon'ble Member has some misunderstanding. The first two parts of his amendment have already been provided for in the Draft Constitution. So far as its third and fourth parts are concerned, these, I think, have been copied from Article 240 of the Indian Constitution. I may submit for the information of the Hon'ble Members that the article referred to above applies to this State also. The Commission, which the president of India is empowered to appoint under the said articles, can function in the State also. The Commission, which the President of India is empowered to appoint under the said article referred, can function in this State as well. The amendment moved by the Hon'ble Member seeks mere change of words. He wants that the words "President of India" in the above article of the Indian Constitution should be amended should be inserted in the Constitution of the State. I do not think there is any necessity of making such an amendment when the President of India has been vested with special powers extend to this State also.

So far as the question of raising the period of the reservation is concerned, Hon'ble G.M. Bakhshi has explained the position.

Mr. Chajju Ram:- Sir, in view of this explanation I want to withdraw my amendment.

Mr. President:- Now the question is that Mr. Chajju Ram seeks permission to withdraw his amendment. Does the House permit him to do so?.

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

Mr. President:- The question is

"That proposed clauses 46 to 91 of part VI stand part of the Constitution".

Note:- The motion was adopted.

Mr. President:- Before the House is adjourned, the amendments received in respect of certain clauses of Part VII (clauses 92-113) will be brought under discussion.

Mr. S.L. Saraf:- Sir, I move the following amendments:-

“(i) In clause 94 after the words “including the power to punish for contempt of itself” the words “or of the courts subordinate to it” shall be added at the end”.

“(ii) For clause 95 the following shall be substituted, namely:-

95. Appointment and tenure of Office of Judges:- Every Judge of the High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Sadar-i-Riyasat and in the case of appointment of a judge other than the Chief Justice, the Chief Justice of the High Court and shall hold office until he attains the age of sixty years”.

“(iii) In clauses 99 and 100 for the word ‘Sadar-i-Riyasat’

wherever occurring the word ‘President shall be substituted”.

“(iv) In clause 108 (1) for the word “High Court or by such officer of the Court as may be authorized in this behalf” the words “Chief Justice of the Court or such other Judge or Officer of the Court as he may direct” Shall be substituted”.

Mir Qasim:- Sir, I support the amendment. The amendment which the Drafting Committee itself had also suggested and which Hon’ble Saraf has now moved, seeks to provide for the appointment of the Judges of the High Court by the President of India, instead of Sadar-i-Riyasat after consultation with the Chief Justice of India and the Sadar-i-Riyasat. The object is to bring the functioning of our Judiciary and its status in the line with that of

the courts of other States of the Indian Union. The Status of the High Court by reason of this will be in conformity with the High Court of India.

Mr. G.M. Bakhshi:- Sir, this amendment is an important one Mir Qasim has explained it briefly. It has been a constant demand of the people from every corner of the State that the Judiciary should be made independent of the Executive. This demand is being fulfilled now in order that the people may secure full justice. The Hon'ble Judges of the High Court of the State shall be appointed by the president of the Republic of India. This will bring the status of our High Court at par with that elsewhere in the Indian Union. I congratulate the House for making such a provision in the Constitution of the State. It is one of the essentials of democracy to separate the Executive from the Judiciary.

Sir, it should be the duty of the Executive to implement every word of the Constitution. An independent Judiciary will check the Executive from going astray or deviating from the provisions of the Constitution. This principle was not adhered to before 1953. It is after 1953 that was accepted the Jurisdiction of the Supreme Court in the State.

Sir, to be honest, the Constitution would not be completed if we did not include this provision in it. Today our opponents and especially the most reactionary ones, have not the check to say that we have not fulfilled our promises. The National Conference Executive has constantly reiterated that they realize their responsibilities as well as their weaknesses, that they are conscious of the sentiments of the people. It is due to their efforts that the House is today arriving at this decision. In future the Executive can in no case influence the Judiciary.

Such measures should open the eyes of the opposition and they should know how clear our intentions are. We act on a principle which after through consideration seems genuinely correct.

With these words, I support the amendment and congratulate the House on behalf of the people and myself for taking such an essential measures. (Cheers).

Mr. President:- The question is:

“That the amendment moved by Mr. S.L. Saraf be adopted”.

Note:- The motion was adopted.

Mr. President:- Now the question is:

“That clauses 92 to 113 of Part VII with the incorporation of the amendments adopted by the House stand part of the Constitutions of the Jammu and Kashmir State”.

Note:- The motion was adopted.

Mr. President:- Before we adjourn. I will read out to the House a letter addressed to me as the President of the Jammu and Kashmir Constitution Assembly by the Chief Secretary of the Jammu and Kashmir Government:-

“No. CS-35/36 Srinagar, November, 3rd, 1956.

To

The Hon’ble President,
Jammu and Kashmir Constituent Assembly,
Srinagar.

Dear Mr. President,

I have the honour to inform you that the Government have found it their duty, in the exercise of powers under section 3(1) (a) (i) of the Jammu and Kashmir preventive Detention Act, 2011, to direct that:-

(i) Mirza Mohammad Afzal Beg;

(ii) Hakim Habibullah; and

(iii) Mr. Mubarik Shah, Member of the Constituent Assembly be detained for preventing them from acting in any manner prejudicial to the security of the State.

Mirza M. A Beg was accordingly taken into custody at 4.P.M on the 25th of October, 1956 and Hakim Habibullah and Mr. Mubarik Shah at 8 a.m. on the 26th of October, 1956. They are at Present in the Central Jail, Jammu.

Yours faithfully,

Sd/-

(GHULAM AHMED)

CHIEF SECRETARY

The House stands adjourned and we will again meet on 5th November, 1956 at Eleven O'clock.

☛ Note:- **The House adjourned till 5th November, 1956 at 11. a.m.**

Monday, the 5th November, 1956/ 20th Kartika, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar. At Eleven O' clock.

Mr. President (Hon'ble G.M.Sadiq) in the Chair.

Mr. President: Today the Eighth and Ninth Parts of the Draft Constitution i.e. from clause 114 to 137 will be brought under discussion.

Mr. Moh'd Ayub Khan: Sir I move: " That is clause 133 (3) after the words 'any class of permanent residents' insert the words 'for permanent

resident of backward areas' of the State". Sir, the clause relates to the Public Service Commission. Under this clause the commission can at anytime consider the recommendations, which the Government may make in respect of the class of people who are not duly represented in services. The amendment moved by me seeks that the words "or permanent residents of backward areas of the State" be added to the clause. These words will make the provision more clear I think the existing provision does not serve the purpose fully, Moreover its words are not clear in their present form. If, therefore, the proposed words are added to the clause it will become clear. Sir, at this time when the Constitution of the State is being framed, the residents of the backward areas that their rights should be kept in view. No privilege was granted to the people of these far-flung areas under the autocratic regime, and that is why they could not progress like those of the other areas and are still backward. Facilities were granted only to the towns, big or small, which are situated on the main roads. For instance, some schools and colleges have been opened at these places, but it is only the residents of town who can benefit by these institutions, the inhabitants of extension in the number of far -flung areas cannot make use of them. Although it is a fact that extension in the number of educational institutions has taken place, yet we cannot expect that the people of remote are is still make speedy progress like those who have been provided with educational and many other facilities. It is, therefore, necessary that to see such people tread on the path of progress special concession and privileges be granted to them so that they also get proportionate representation in public services. They have been deprived of their rights by other section of the people and it is high time we considered their case. Sir, if my amendment is incorporated in the Draft Constitution which embodies the aspirations of the people we

will render a great service to this down trodden class of people. I hope the House would support me.

Mr. Abdul Aziz Shawl: Sir, I second it.

Mr. D.P.Dhar: Sir, the amendment moved by Hon'ble Moh'd Ayub Khan seeks that the inhabitants of backward areas should be given proper representation in public services. It may be submitted in this connection that we also want to see the day when most intelligent and efficient persons are recruited in public Services. But so far as the reservation of the representation of socially and economically backward classes is concerned, special provisions have been made in the Draft Constitution under the chapter "Public Services". In that part of the Constitution provisions have also been made under various clauses for the advancement and safeguard of the residents of backward areas. On the other hand, if we go through the Constitution of India we will not find any such provisions therein. Sir, I think the amendment has been moved as a result of some misunderstanding, there has been made special provisions in the Constitution for the representation of the people from backward areas, and special rules will also be framed for this purpose. The clause under discussion guarantees the fulfillment of their desires and aspirations. The desire with which Mr. Moh'd Ayub Khan has moved the amendment to the clause will also be fulfilled. I would request him to study again so that his doubt may be removed. I hope that after the explanation given by me he will withdraw his amendment and will not press it.

Mr. Moh'd Ayub Khan: Sir I withdraw my amendment.

Mr. President: Mr. Moh'd Ayub Khan wants to withdraw the amendment moved by him. Should I think the House has accorded him the permission to do so?

Note: The amendment was withdrawn with the permission of the House. The Star mark indicates that the speech was delivered in Urdu and the English translation thereof is incorporated in the Debates.

Mr. President: The Hon'ble members, who want to discuss any of the clauses from 114 to 137, may do so.

Mr. Chajju Ram: Sir, I want to say something about clauses 129 and 133 of the Draft Constitution which provide for the public Service Commission in the State. For the proper functioning of this Commission it would be advisable, in my opinion, to include in it a member from the back ward Clauses or the Schedule Castes. The members of this august House must be thinking why I have been repeatedly referring to these sections of the people. Although the articles of the Indian Constitution are being applied to this State and provisions for the services and other privileges are being made with regard to the Schedule Castes, yet action is not being taken in accordance there with. The articles of the Indian Constitution are not at all followed. Now I would like to explain it.

Thousands of persons belonging to various communities other than the Schedule Castes are employed to Government offices, but the number of an employee coming from amongst the Schedule Castes is less than one dozen. Whenever I find there is not a single Harijan employed in the Government Secretariat, I recall to my mind the provisions, which guarantee their representation in services in proportion to their population. Sir, we do not mean that candidates from our community be preferred to other educated people. We do not mean that a matriculate from amongst Harijans be recruited to Government Service instead of a graduate belonging to some other community. What I want to say is that even our graduates are not being given employment. We had submitted a list of three or four graduates for

employment, but it is not known why they have not been appointed so far. It may not be out of place to mention here that there are certain officials who do not want to see the face of a Harijan in their office. Besides, there is the Praja Parwished in the State, which has always been suppressing the Harijan population. I do not have the slightest hesitation in saying that the elements referred to above do not want to see these down trodden people prosper.

I have just received a letter from a friend wherein he states that he had passed girdawari examination in the year, 2010 securing second position. He further states that although he has at his back about six years service in Revenue Department, yet it is not being given any promotion. Is it because he is a Harijan and is it the service we are rendering to the Harijans, he asks? What reply shall I give to his letter? Have no answer to give. It is a fact that since Shree Mansukh Rai, who was girdawar previously. Was returned to this House five years ago, no Harijan has been appointed as a girdawar although girdawari trained Harijan candidates are available. It is disappointing.

The population of Jammu province is about 12lakhs. Harijans comprise one forth or one fifth of this population. Accordingly to this proportion of the population one permanent post of a Deputy Commissioner should have gone to a Harijan. But contrary to this, a temporary post of a D.C. was given to Shree Mangat Ram M.A.L.L.B. Who is a Harijan. He has not been confirmed for the last nine years with the result that he is being shunted off from place to place. The only reason for this that he happens to be a Harijan. Mahasha Nahar Singh has recently referred to the question to the question of the appointment of Naib Tehsildars. I agree with him. Harijans were not given their due share in the recruitment of Naib Tehsildars according to their population, while about sixty candidates were taken from

amongst other community's. Such being the case we cannot face the people who have sent us here to represent them.

Sir, it is a matter of joy to me that the National Conference Government is in power. I am also happy over the decision taken by the Harijan Community to adhere to the programme of New Kashmir and the National Conference Government, which alone can better their lot.

Sir, today I came across a statement.

S. Kulbir Singh: I rise on a point of information, Sir. The Hon'ble member has referred to the members who will constitute the Public Service Commission although no mention of them is made in the relative articles of the Draft Constitution. Moreover, it is not laid down that no Harijan member will be taken in the Commission.

Bhagat Chajju Ram: Sir, had the Hon'ble members attentively heard me he could have understood me, I am laying emphasis on the point that members to the Commission should be taken particularly from amongst Harijans and other backward classes and that the article should be amended accordingly. In view of our past experiences maximum safeguard of our rights should be provided for in the Constitution. However. I was stating that the Harijans thoroughly studied and understood the programme of the National Conference when it was put before them. They quite realize that their existence in general depends upon the programme of the National Conference. I, therefore request, Sir that a Harijan member should be taken in the Public Service Commission because under the present circumstances that is the only course to safe guard our rights.

Mr. President: So far as the appointment of a Public Service Commission is concerned. Harijans have not been debarred from its membership. The

discussion held by the Hon'ble members is irrelevant. He may either support or oppose it, or move amendment to it.

Bhagat Chajju Ram: I am submitting my opinion, Sir.

Mr. President: You can talk about relevant things only.

Bhagat Chajju Ram: Sir, as I have already stated Harijjans have resolved to follow the National Conference and its programme, which alone can be guarantee to their progress. The National Conference has been working for the general good of the State for the last twenty-two years.

Sir, I have just referred to the letter sent to me by a friend of mine. To make my point still more clear, I would quote another example. One Baghat Sain Dass, who is a Harijan, has been working in the Jammu Willow factory for the fifteen years. In fact, it is he who established that factory. But three months ago he was returned out of the factory without any reason. His family has been rendered destitute and has no means of live hood.

Sir, I do not want to waste more time of the House by quoting more example I hope everybody will due representation and that all the difficulties faced by those who are ready in employment or who will be recruited in future will be removed. Justice should be done to everybody. All necessary privileges and concessions should be afforded to backward people. I hope full justice will be done to Schedule Castes by the Public Service Commission.

Mr. Bhagat Ram Sharma: Sir, every thing has been clearly laid down in Part 1X of the Draft Constitution relating to Public Service. Provisions for the rights of the public servants and the conditions where under they will be recruited to services have been made therein. However, in this connection we ought to have defined the rights of such public servants. The next

important clause relates to the procedure for the recruitment of the public servants.

Sir, I think the provision under this part of the Draft Constitution is clear and comprehensive. I have studied it and there seems to be no necessity to amend it. But so far our position in relation to India Executive and Administrative Services is concerned. I am surprised that there is no mention of it in this provision of the Draft Constitution. I hope the Chairman of the Drafting Committee will throw light on this point. It is an admitted fact that our state is an integral part of India. But it is not clear what our share in those services will be our public servants also should get opportunities of being absorbed in the Indian Administrative Service so that they could add to their knowledge and experience. So far no official from our State has been taken in that Service. As the state has now become an integral part of India, we should like to have due share in the Indian Administration Service. This Draft does not contain any such provision. It is true that it provides for the safeguard of services and the duties of the public servants of the State, but what we want is that our officials should be taken in the Indian Service and those of the Indian service should get opportunity to serve in our state. There should be no restriction on this procedure. There are already some lent officials from India working in our state but, on the other hand no officials from our State have so far been taken in the Indian Service. There is no denying the fact that in our state there are many intelligent and efficient officials and that they also want to get opportunities of serving in India. However there is a section of officials in our state who do not want to join the Indian services. They hesitate in doing so because they shirk from putting in more work even if they are offered decent salaries. We have a number of officials here who get fat salaries but do not work

properly. There fore if we arrange employment of our officials in the Indian services we can get rid of such officials as have monopolized our services.

It may also be submitted here that there are some grades in our services, which could be so far as revised due to financial stringency. The officials who are working in such grades should by way of encouragement be given an opportunity to prove their efficiency in the Indian services where they will also be handsomely paid.

Sir, I would like to know what the position in respect of our officials would be so far as the Indian police and Administrative Services are concerned.

Mahasha Nahar Singh: Sir, a Public Service Commission has been provided for in the Draft Constitution. I am of the opinion that representatives of backward areas and classes should be taken as members in that Commission. We are afraid that the same conditions may not prevail again which has been referred to be my friend Mr.Chajju Ram, if the Commission is presented by the people who have already enough representation in public services. The backward classes can be encouraged only when they are fully represented in the Commission. This Commission has to watch and safeguard the interests of every section of the people and see that every class is properly represented. If therefore, a Commission of eight members is to be constituted, four of them should be from amongst the backward classes. This will be a step towards achieving New Kashmir. If the backward classes are uplifted then alone can we say that the Constitution has been genuinely implemented? My submission therefore is that maximum number of members to this Commission should be taken from amongst the backward classes and the Schedule Castes.

Mr. G.L.Dogra: Sir, Part VIII of the Draft Constitution, which is under discussion relates to Finance, Property and Contracts. It provides that power to control finance shall be vested in the Legislative Assembly. It also provides for two funds, the consolidated fund and the Contingency fund. All taxes or loans or other Revenue received by the Government shall form the consolidated fund. All the expenditure out of this fund shall be incurred with the sanction of the Legislative Assembly. The Constituency fund shall be established in the nature of an impost and the Legislature shall make laws to regulate this fund i.e. to regulate the payment of moneys into such fund and the withdrawals there from. We should make these laws so that the work of the various departments in respect of the payment of imprested money in to such funds and their withdrawal is facilitated. Sometimes the passing of the Budget is delved. In that event Government can spend moneys on the basis of "Vote on Account". Sir, these were some points regarding PartVIII of the Draft Constitution to which I wanted to draw the attention of the House. In this age of democracy the Legislature should given its opinion in every matter. It is also necessary that the Legislature should have its control over the financial transactions to be made by the Government.

Part IX of the Draft Constitution Public Services and the Public Service Commission. It is for the first time that our State Services have been given constitutional recognition. The setting up of the Public Service Commission would be in conformity with the wishes of the people. It would fulfill their longstanding demand. The members of the Commission would be appointed by the Sadar-i-Riyasat. It has just been said in the House that due representation should be given to the backward classes in the services. In this connection I may submit that the Government has been empowered to frame recruitment rules and the Commission will make appointments only

accordingly to those rules. Those rules will be published in the Government Gazette. The legislature can make amendments in those rules, if so desired. The Commission will have to strictly follow the rules. The Commission, which will be appointed by the Sadar-i-Riyasat, will consist of members from any community and their appointments will be made without distinction of caste or creed to which they belong.

Mr. Mansukh Rai: Sir, I rise on a point of information Mr. Chajju Ram and Mahasha Nahar Singh have demanded that members to this Commission should be taken from amongst the Scheduled Castes. I would like to know the personal opinion of Hon'ble Dogra in this behalf.

Mr. G.L.Dogra: It is not a question of personal opinions or personal desires. I was stating that the members of the Public Service Commission should function accordingly to the procedure and rules to be set for the purpose. Moreover its members shall hold office for the term of five years only. They cannot take up State service after the termination of that period. The provision has been made in order that they may not exercise their influence for securing job in the State service after they cease to be the members of the Commission. So far as the question of giving full representation to the Scheduled Castes is concerned. I may submit that the Hon'ble members have themselves admitted that the conditions obtaining now are far better than those of the past. However, I may assure them that it is in view of their aspiration that the Public Service Commission has been provided for in the Constitution. As regards the Indian Administrative Services, I may submit that recruitment to these services is made by the Union Public Service Commission. Therefore, the question of making any mention in the Draft Constitution in regard to those services does not at all arise. Our State nationals can be recruited to all the services except the

Indian Administrative Services and the Indian Police Service. So far as these two services are concerned, our Government is exchanging correspondence and I think a decision in the matter will be arrived at shortly. There is however no constitutional restriction on the entry of our State Subject in to these services. The only difficulty is that our State has not been including in this arrangement. I hope some decision in this behalf will be arrived at very soon.

Mr. President: Major Piar Singh.

Major Piara Singh: Sir, I move “That is sub-clause (4) of clause 133 of the Draft Constitution for the words ‘both Houses’ the words ‘Legislative Assembly’ shall be substituted” Sir, this amendment has been necessitated due to the wording of clause 133 of the Draft Constitution which can be a cause of disagreement between the Upper and the Lower House of the Legislature. The clause reads;—“ All regulations made under the provision to sub-section(2) by the Sadar-I- Riyasat shall be laid for not less than fourteen days before each House of the Legislature.....”. These regulations shall come in to force as soon as the both Houses pass them. But what will be the right course in case the regulations are passed by the Legislative Assembly and not adopted by the Legislative Council? There is no procedure in this respect before us. This amendment, therefore, seeks that these regulations shall be placed before both the Houses and finally decided upon by the Legislative Assembly.

Mr. S.L.Saraf: Sir, I second it.

Mr. Bhagat Ram Sharma: Sir, if this amendment is adopted, the first two lines of the clause shall have to be amended. Sub-clause (4) reads as under:—
“(4) All regulations made under the proviso to sub-section(2) by the Sadar-I- Riyasat shall be laid for not less than fourteen days before each House of the

Legislature as soon as possible after they are made and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses may make during the session in which they are so laid". Sir, if it is desired that for the words "both Houses" occurring in the last line the words "Legislative Assembly" should be substituted, then it is necessary that the words "each House" occurring earlier in the third line of the sub-clause should also be substituted.

Major Piara Singh: Sir, the purpose of the amendment moved by me is that the final decision should be made by the Legislative Assembly.

Mr. G.L. Dogra: Sir, I accept the amendment moved by Major Piar Singh.

Mr. President: The Chairman of the Draft Committee has accepted the amendment: "That in sub-clause (4) of clause 133 of Draft Constitution for the words 'both Houses' the words 'Legislative Assembly' shall be substituted".

Note: The motion was adopted.

Mr. President: If any Hon'ble member wants to say something in general about the rest of the clauses he can do so.

Note: Nobody rose to speak.

Mr. President: The question is "That clause 114 to 137 of part VIII and IX of the Draft Constitution after incorporating the amendment adopted in this House stand part of the Constitution of Jammu and Kashmir. Note the motion was adopted unanimously.

Mr. President: This brings the proceedings of this day to a close. The House stands adjourned now till 11 O'clock tomorrow morning. Note: The House then adjourned till 6th Nov. 1956 at 11 a.m.

Tuesday, the 6th November, 1956/21st Kartika.2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgrah Palace, and Srinagar at Eleven O'clock.

Mr. President (Hon'ble G.M.Sadiq) in the Chair.

Mr. President: Today the tenth and the eleventh part of the Draft Constitution are to be taken up by the House of which clauses 138 to 146 will be discussed. No amendment has been moved in respect of those two parts and therefore, those Hon'ble members who would like to have a general discussion on it can do so.

Mr. Chajju Ram: Sir, I beg to make some submission in connection with two clauses of part ten and eleven. While going through clause 140, wherein it has been laid down that the elections will be held on the basis of audit suffrage, I feel that the Drafting Committee has been able to fulfill the desires of the people. Under this clause every body has been given the right to vote. This right will be given to the residents irrespective of their sex and educational qualification or whether they are tenants or possess a house (Laughter) By a tenant I mean a person of any religion who has got no house to live in. Previously, this right was not enjoyed by the poor. Today it is being laid down here that any person to whether party he belongs can send his representatives to the Assembly by exercising his political rights. It has been the viewpoint of our Organization. I.e. the National Conference Party from the very beginning in order to put the people on the path of progress. All discriminations have been done away with today everybody whether he possesses property or not has been invested with political rights. When other

parties were in power in this country, they had deprived the people who had no property or house of their rights. Such people had no right to vote. The autocratic rules maintained their concessions through the system of nominating members. I remember that some Harijans were nominated as members. And they continued to remain as such for twelve or thirteen years in the former Assembly and did nothing for the general public. The National Conference has put an end to that system forever and has given every citizen the right to vote. Sir, I would, through this House, like to convey this message to all those who have no houses to live in or who have no property, that they have been given this right through the efforts of the National Conference. They can exercise their right and elect their representative to the Assembly. This clause is in full accordance with the programme and in the viewpoint of National Conference. It was the demand for which the National Conference had to make great sacrifice. Will the other so-called parties of our State be able to tell us as to what they done for the people so far? Had they ever recognized this right of the people when they were in power?

Note:- The star mark before the name of the Hon'ble Members indicate that the speech was delivered in Urdu and the English translation thereof has been incorporated in the debates.

Sir, I am reminded of a slogan coined by Sardar Budh Singh Tyagi regarding the flag of our State. It is that "Every thing is under the plough". How high were his ideas and how warmly would he express his views regarding this flag. I think today is the day when his ideas and the viewpoint of the National Conference is being fulfilled. It is only under the guidance and the leadership of the National Conference that our country can prosper. Sir, 99% of our population depend on agriculture and it is my opinion that

if they are benefited the whole State would make progress. There is still a section of the people in our State. But I may warn them not to ignore the present condition of our State. They should now participate in the reconstruction of our State. Much has been spoken about the plough flag. The Hon'ble members of this House might be remembering the speeches of Sardar Sahib, which he used to deliver in this behalf. It is therefore, that I do not want to take much time. I am very much pleased to see that the National Conference which has the prestige of the State at heart has fulfilled all the promises held out of the body. Our way is the way of the National Conference and our goal is New Kashmir. With this view point the people marched forward. I would advise all those persons who are mere spectators that they should also do as we have been doing so far. I would also request all those persons who are wavering, to follow the right path. We will not find our goal far away if we continue to march forward with the same zeal. With these words I conclude my speech.

Mr. Bhagat Ram Sharma: Sir, there is no necessity of elucidating this part of the Draft Constitution after the speech of Mr. Chajju Ram. I think that in this part of the Draft Constitution one important and necessary item about which Bhagat Chajju Ram made no mention in his speech and which has been over looked in the official language of the State. According to this Draft Constitution Urdu will be the official language of the State. It has been provided in it that until Legislative Assembly provides otherwise English will continue to be in vogue for the official purpose for which it was used immediately before commencement of the Constitution. At the same time, when we say that Urdu will be our official language some people are confused and say as to what will happen to other language. But clause 16 makes it clear and the Sadar-i-Riyasat has been invested with powers to set

up an academy of languages, Art and culture. It will be the facilities for the function of this academy to develop Art and Culture and to provide facilities for the development of Hindi, Urdu and other regional languages in our State. It has also been laid down that the regional languages which are spoken in the State should also be developed. The languages mentioned in Schedule VI are Kashmiri, Dogri, Balti, Dardi, Punjabi, and Ladakhi. Though Urdu will be our official language but English will continue to be in vogue till Urdu replaces it by law by the new Legislative Assembly. As regards other languages the Draft Constitution makes appropriate provisions for their development. Those persons, who in the name of language problem are trying to mislead the people for their selfish motive, will have no chance to do so. Now they will not be able to say that a particular language will have no chance for the development. Facilities for the development of each and every language have been ensured; with these words I support it.

S. Harbans Singh Azad: Sir, I will not make a lengthy speech. So far as clause 145 is concerned it will be elucidated by the Chairman. I would say something regarding clause 146. I congratulate the Draft Committee who have fulfilled an important task by including clause 146 in the Draft Constitution. The promise held out in New Kashmir that after the establishment of a responsible Government in the State every effort will be made to develop all the languages, which are spoken, in the State, is being fulfilled by means of this clause. Today we are going to adopt this clause. So far as the official language of the State is concerned it will be Urdu, and unless this assembly decides otherwise English will continue to be used in the official correspondence. The Draft Committee feels that we should also keep an equal pace with the speed with which English is being replaced by Hindi in the centre, otherwise there will be lot of difficulty in the interstate

correspondence and that between the State and the Centre , Continuance of English language is very essential till complete arrangement in respect of Hindi are made.

Sir, I am very much pleased to see that special provision for Punjabi has been made in the Draft Constitution for the first time just as provision for Kashmiri and Dogri has been made in it. It is the duty of Government to develop the Pahari and Punjabi languages along with Hindi, Dogri, and Kashmiri. It is hoped that the Government will set up an Academy of Arts as early as possible. The art of our State particularly flock dances and flock songs were famous throughout the whole world. It is hoped that the Government would take the necessary steps in this connection, so that Kashmir shines once again like a star in the world.

Mr. Krishen Dev Sethi: There is a clause in this Chapter, which gives the right to vote to all adults. I beg to say something in this connection. In fact, the adult franchise means that the people over here may set up any social system they like So far the National Conference as well as other movements of the world have been fighting the same battle in order to fulfill their aspirations by setting up a socialist system. On the one hand, there are many powers as struggle for this right. While on the other hand some powers want to deprive the people of such rights in order to impose their own social system on them after suppressing the peoples will. The National Conference has struggle against all this and in view of this has given all the adults the right to vote so that they are able to set up a social system accordingly to their own wishes. Today, there is some opposition whether these are slogans for plebiscite or whether there are intrigues on an international plane it all means that the people of Jammu and Kashmir may not be able to set up a

social system according to their needs but should follow the British or other people's system. Today, you know there is war going on in Egypt. The question is as to why this is being waged. The people of Egypt have chosen a path to do away with imperialism and to utilize their all for the good of the people of Egypt. But those people who want to foist their own social system on the world attacked Egyptians with bombs and guns. This battle is going on there to compel the Egyptian people to adopt the English pattern.

President: your speech is irrelevant.

Mr. K.D. Sethi: No Sir, when we say that provisions should be made for adult franchise we mean that the people should be able to evolve their own social system. The present war is being fought simply for the purpose that the people should not set up social systems according to their own wishes. The whole world has accepted this right of the people and the people of Egypt too are struggling for this very right.

Mr. President: the question is that the present discussion pertains to the elections but so far you have said nothing about the elections.

Bakshi Ghulam Mohammed: Sir, he is speaking with regard to elections.

Mr. K.D. Sethi: Sir. I was submitting that the same struggle was going on everywhere in the world including our own country. Imperialism like autocracy wants that the people should not be given the right to vote while on the other hand clause 140 of our Constitution provides for adult franchise. This signifies the triumph of the struggle which the people of Kashmir have been carrying on so far (Cheers) I think this Principle has triumphed in Kashmir and it will triumph in the whole world and imperialism will be defeated.

Mr. Moti Ram Baigra: Mr. President! Today I am reminded of a motto, which was written on one of the walls of Mujahid Manzil. When I was

getting. Interested in political problems and had been to Mujahid Manzil for the first time I found the motto 'sovereignty rests with the people written on a wall. By clause 140 we are giving this realizing today to the people I am reminded of that motto which we are realizing today by providing these rights to the people through the Constitution. The national Conference has made many sacrifices for the realization of this motto and a large number of young men laid down their lives for it. But today the people have secured the right of self-determination and their sacrifices have borne fruit. There has been great bloodshed in the world in order to deny this right to the people. The example of Egypt is before you. They had their own set up and today a war has been waged against them. Today when provision for adult franchise has made in clause 140 the people from opposition and reactionary parties who come in our way want to create such conditions as were prevailing previously in the autocratic as has been correctly mentioned with regard to the Plebiscite vinctualism form from behind the scène. They should know now that we are giving those fundamental rights to the people about which we are giving those fundamental rights to the people about which we had out a promise in the programme of the National Conference.

***Sardar Kulbir Singh:** Sir, the clauses under discussion today relate to the elections and their procedure. I support all those persons who have spoken in this connection so far. All the misunderstanding, which was being created amongst the people from time to time, will be removed by the type of set up of the election machinery that has been provided for in these clauses. It has been clearly laid down in these clauses that the Sadar-I-Riyasat will appoint the Election Commission and that the elections will be held in the same manner in which these are to be held in India. The status of the Election Commission will be different from that of other offices. Unfortunately the

problem of language was used for creating dissensions among various classes of people in India but in our State Kashmiri, Digri, or Bodhi speaking people will come so near to each other as they were never in the past and thus all the reactionary elements who tried to separate Ladakh, Kashmir and Jammu on the basis of language will be eliminated for ever.

Sir, the people are being misled in the name of the integrity of our State, But the set up that we are providing for in the Constitution will be a slap on their faces. We will maintain the integrity of our State through a common culture. We will unite all the residents of our State so that they may march forward by participating in the Social and economic programmers of the State. The provisions that we have to adopt today are a guarantee for these things (Cheers).

Mr. Moh'd Ayub Khan: Sir, we are adopting some clauses today. We are again ratifying our accession to India, which means a safeguard to our internal autonomy. Previously also we have adopted some clauses of our Constitution and this means that our internal autonomy will be safe and secure. We have resolved that the elected Assembly of our State shall appoint the Sadar-i-Riyasat. It means that the Sadar-i-Riyasat will be appointed on the final recommendation of the Assembly. There are three important clauses, which are going to be discussed today. In one of the clauses it has been laid down that the Election Commission shall be appointed by the Sadar-i-Riyasat. Secondly, as regards the flag, It will be the same which the history of our State is linked (**Cheers**).

The third clause lays down that the language which is being spoken by majority of the people will be the official language. Some disruptive elements in view of their selfish motives are creating misunderstanding amongst the people to the effect that the internal autonomy is being put an

end to. The tactics of Hindu and Muslim communalists may be different but their goal is one and the same. They say that the Election Commission will not be an independent body. I may ask them as to who has to appoint the Commission. It is to be appointed by the Sadar-i-Riyasat who will be elected by the representatives of the people. It is evident from this that the Election Commission will be a fully independent body. It has also been laid down in sub-clause (4) of clause 136 that “the Sadar-i-Riyasat may make available to the Election Commission such staff as may be necessary for the discharge of the function of constitutions conferred on the Election Commission.” This means that even the staff of the Commission is to be appointed by the Sadar-i-Riyasat. This proves the independent nature of the Commission and nobody will have any occasion for complaint.

It has also been laid down in this Chapter that Urdu will be the official language of our state. it is being said that there is no mention of Hindi in the Constitution. But I think we have respected the wishes of the people by declaring Urdu as the official language of the state. We are also alive as to the status to be given to Hindi in our state, which is a part of India. In this connection Clause 146 provides for the establishment of an Arts Academy where opportunities and facilities for the development of Hindi. Urdu and other regional languages will be afforded. Some people and particularly the Praja Parishad leaders are of the opinion that Urdu is not our language but I may ask them in which language do they deliver their speeches. Which language in which newspapers are being published? It is not proper to shut one's eyes to the realities. These people deny facts simply because of fanaticism. We have respected the people's wishes and it is, therefore, that we are declaring Urdu as the official language of the State.

It is indeed a great pleasure that the flag of the State will be the same as has already been decided upon. So far as the flag of the Indian Union is concerned we have every respect for it as every Indian must have. But we cannot deny the fact that the official flag chosen for our State has bearing on our history. We have made sacrifices of men and material under this flag during the struggle for independence. Many people gave their lives for it. Giving up this flag today would mean that we are forgetting our past struggle and that there is no guarantee for a glorious future for those who break all their relations with the past. I think the clauses that are under discussion today are very important. These pertain to three things; firstly, appointment of the Election Commission; secondly, the official language of our State; and thirdly the flag of the State. It is a happy thing that all these problems have been solved according to the desires of the people. Our right of self-determination has been recognized. This is right for which various nations are at war with each other and with the object of snatching away this right from the people of Egypt their country has become a battle field. If this right of self determination is accepted and recognized there will be eternal peace in the world. With these submissions, I support these two chapters which are under discussion in this House.

***Mr. Abdul Gani Goni:** The Tenth and Eleventh Chapters of the Constitution are under the consideration of the House, Some Hon'ble Members have expressed their views in this connection I have read the Draft Constitution and it can be divided into three parts:-

1. the basis on which elections are to be held;
2. how the Sadar-i-Riyasat is to be protected; and
3. the future of our language.

I have gone through many articles of the Indian Constitution and I think that the system of the elections which has been provided for in the Draft is similar to that of India. Similarly, the Sadar-i-Riyasat has been invested with extensive powers and protected from the jurisdiction of courts and other legal proceedings just as Raj-pramukhs in India have been protected. In addition to this provisions regarding our languages have also been made. Right of adult franchise is not a new thing. It is a principle which has been adopted since long. Previously, there were some restrictions in this respect, for instance, one should have attained the age of 21 years and should have been educated and owner of some property. In short, it was very essential for one to be of high social status.

Fundamentally this system was established according to the conditions prevailing at that time. Our country was ruled by an autocratic ruler. On the one hand, he had to protect himself and on the other to respect the aspirations of the people. But today we have eliminated all those restrictions and every adult is being given the right to vote irrespective of his being a male, or female, literate or illiterate; poor or rich or a labourer. The international slogan of peace is being adopted and every human being is given equal rights according to the dictates of humanity. Every adult in our State can now exercise his right to vote and take part in the reconstruction of our country. By doing so, I think, we are laying the foundations of those glorious traditions for the future, which have already been recognized by the whole. We have great respect for every human being. We challenge Britain's aggression against Egypt but at the same time I think that the attitude of Russia and America too is not correct. Hungary is being attacked and America says that the problem of Egypt and Hungary should be solved peacefully. But internally they are helping Britain and Israel. In my opinion,

among all powers of the world, it is India alone which is following the right principles. The principle of peaceful co-existence and Mr. Nehru's panch sheil has attracted the whole world. But in the practical field those who swear by these principles do not follow them. In case of India there is practically no difference between theory and practice. Every weak and suppressed nation of the world looks towards India. We are, today, adopting all the best principles which have already been adopted by the world. I think that the problem of language cannot be solved only by adopting the constitution. The facts are before the country and other powers. Every power, however, great it may be, as to how before the realities. Gandhi Ji was a great personality. He was sure that by adopting the policy of non-violence, we should be able to source freedom. At that time, we could not believe it as we were following the other path. But after sometime we had to bow before the facts. Urdu will be our official language but it does not mean that we are ignoring Hindi. Usually the people of Jammu read Hindi and educate their young generation in Hindi. Time is not far away when the importance of Hindi will increase just like that in India.

Mr. Bhagat Ram Sharma: - Do you know Hindi?

Mr. Abdul Gani Goni:- yes, I know Hindi. I can read and write it. When the people over here start reading Hindi it will enjoy the same status as is enjoyed by Urdu. At present the majority of people in our state know Urdu and it will be wrong to launch a campaign against it. After sometime Hindi, which is our National Language will also be adopted by the people of our state. The summons etc, that I get these days from India are written in Hindi. Hindi is also quoted in the judgments. A time will come when the importance of Hindi will increase.

Similarly, it is our duty to protect the Sadar-i-Riyasat who will be the Constitutional head of our state.

***Mr. S.L.Saraf :-** Sir, I feel that I should also say a few words in connection with those clauses of the Draft Constitution which are under discussion today. First of all in these clauses there are some provisions in regard to the elections. Our country was raided and we were subjected to aggression. Ever since the setting up of the Government by the elected representatives of this state, a section of the people in the state and outside it has been raising a great hue and cry that our Country is a police state and that the Government does not truly represent the people of our state. Today it is known to the whole world as to what sort of a constitution is being framed by the party which has greatly improved the lot of 40 lakhs of people of our state. By investing the Sadar-i-Riyasat with the powers to appoint the Election Commission, it is quite clear that the Election Commission over here will not in the least be under the influence of the Government or the Executive. It clearly shows how democratically and in a fair manner the party in power solves the problems of our state. It is in deed a great pleasure to me and I congratulate the party for it. It was suggested with some motives that the Election Commission should work under the Central Government but the members of the Drafting Committee like practical politicians have been able to remove the misunderstanding which various people and parties wanted to create. Keeping in view the sanctity of our freedom struggle, we are giving a constitution to our state which is free from all defects and shortcomings. There is no room for intrigues or aggressive designs in it. There remains no chance now for anyone to exercise opposition. The Election which is to be held in the near future will be held in a free and fair way.

Today, it gives me a great pleasure to see the National Flag fluttering which we have adopted after a great struggle. We have made great sacrifices for it. Lakh of peasants, labourers and workers were united under this flag and carried on their struggle. The outcome of this struggle was that we convened the Constituent Assembly under this flag and today this Constituent Assembly is deciding the fate of our country.

This is the result of our own sacrifices which we all have made so far for our country. We have adopted this flag after giving it our full consideration. The red colour and the plough mark of the flag brought about the unity of our country. On the one hand, it united Hindus and Muslims in our country while on the other it rooted out provincialism between Dogras and Kashmiris. It is the flag which was all along recognized by the National Conference and it is the same flag under which we are framing the constitution for our country. We agree that the Indian flag is supreme in many respects and we honour it, but we have been given a special position by the leaders, Parliament and the Government of India. In view of our special position, we have our own flag and keeping in view our freedom struggle our own flag is supreme.

In view of our struggle we have decided that Urdu shall be the official language of our state. It is a fact that Urdu is a refined language which is spoken and understood by the majority of the people in our state. We have boldly and realistically declared Urdu as the official language of our state. As regards Hindi, I have a great respect for it and am a lover of it. It will also be developed to such an extent as is required. Facilities for its development have been provided. It is just possible that some times a need may arise for the use of the Indian Official language, Hindi in correspondence with any department of the Indian Government. We will

have no objection to that at that time. The Drafting Committee has functioned realistically in order to fulfill its duties.

One of the important items in chapter xi is with regard to the establishment of an academy of Arts, culture and languages. In my opinion such an academy is very essential for the development of every country. It provides opportunities for the development of spiritual and intellectual life of a country. Our country is very backward in many respects, particularly on the cultural side. Our music, poetry and drama had no place anywhere but we are marching forward since we achieved our freedom eight years back. On the initiative of our leader, hon'ble the prime minister, the festival of Kashmir was held in the provinces of Kashmir. Such a festival will be held in Jammu also in the future. Whenever we have had an occasion to visit villages we have felt that hundred and one new things are coming up. Today, new poets have come forward and dramas and other remarkable works are being written. In order to fulfill their aspirations we are providing constitutional guarantees for the development of our art and culture.

Opportunities for the development of all the healthy tendencies which are found in our country at present will be afforded. It will be the duty of the present government to carry out these tasks with the co-operation of the people. These were some of the ideas which had occupied my mind.

There are many regional languages which are spoken in our country. Urdu shall be the official language of our state. But in addition to this certain other languages have been referred to in the schedule. Opportunities will also be afforded for the development of these languages. With these words I support these clauses.

***Mr. Mir Qasim:-** Sir, many speakers, particularly Mr. Saraf, has fully explained the provisions contained in the clauses which are under discussion

at present in this House. The speech delivered by my friend Mr. Goni, who had unfortunately, parted company from the National Conference for sometime, has created some misunderstanding in my mind for the clarification of which I would like to say something. By the speeches delivered by some of the members of the parliamentary party of the national Conference. I am convinced that they have been able to express the aims and objects embodied in these clauses. I do not know as to what Mr. Goni meant when he observed that time was fast approaching when Hindi would be learnt compulsorily and some difficulties would arise in connection with the efforts we are making for the development of Hindi. He mentioned some other difficulties, likewise, he also made mention of adult suffrage. Instead of understanding a particular problem in a particular way, we while trying to understand its implications, indulge in a lengthy and unnecessary debate. In this way, some other friends also have tried to express their views on the international situation.

Adult suffrage means that Kashmir has adopted the principle of Parliamentary democracy and the people have been given the right to express their opinions in a particular way. On the bases of this opinion a Government is formed which functions under the constitution. All the social problems are brought forward through the public opinion and those problems which require early solution are put forth during the elections and are reflected in the future policy of the Government formulated at that time. We have adopted the principle of Parliamentary democracy so that there may be fair elections and people's real representatives are returned to the legislature. With the awaking of political consciousness, the people will be able to elect their true representatives.

There is a great difference between a rigid and a flexible constitution. If we make a rigid constitution the people may rise against it at any moment, especially when it does not keep pace with the times. By keeping it flexible it can be amended at any time according to the aspirations of the people. We have to establish a society of socialistic pattern. Our state being a part of India and in view of the requirements of Parliamentary democracy we had to include many items in this constitution. Mr. Goni has made a reference to the Governors of Indian states. We have given protection to the Sadar-i-Riyast through miscellaneous provisions. This means that neither criminal nor civil proceedings can be instituted against him and if such proceedings can be instituted against him and if such proceedings are to be brought up against him and if such proceedings are to be against him, how and in what manner these are to be taken. This is the protection which has been given to him. Such protection is usually given to the head of a state. In order to avoid unnecessary difficulties in the discharge of his functions such a protection was considered necessary. I would like it clear that we have not given a status of a Rajpramukh to the Sadar-i-Riyasat but have given him only a protection from being answerable to any court of law. It would not have been consistent with the dignity of the office to make him answerable to any court. Mr. Goni considers that the Sadar-i-Riyasat has been given extensive powers. Provisions have been made in the Draft constitution for the development of Kashmiri, Dogri, Punjabi, Pahari and Ladakhi languages. It is not proper to raise objections against Urdu language which is our own language.

According to the constitution of India Urdu is a regional language. They know that Urdu like Bengali and other regional languages is spoken in some regions. If opportunities for the development of such regional languages are

afforded, it is not in any way inconsistent with the development of the national language. We have to see for what purposes the national language is being used. Kashmir has also decided to use it for all those purposes for which it is used in India. Hindi is the national language of India which includes Kashmir also but it cannot be adopted immediately in our state. Mr. Nehru has said that the use of the English language cannot be given up immediately. The national language of India is not a religious language. We should not think in terms of Hindi and Urdu being the languages of Hindus and Muslims respectively. I admit that religious sentiments are being fanned but it is incorrect to say that Urdu is the language of Muslims. Muslims may claim Arabic to be their religious language because the Quran was revealed in that language. Urdu is the outcome of many languages. By declaring Urdu as our official language. We do not mean that it should override the national language. Kashmir is a part of India and it has been laid down in the Indian constitution that steps will be taken to develop the Urdu language in all those regions where it is spoken and used. If we raise objections against Urdu, it will be a violation of the provisions of the Indian constitution in respect of the development of the regional languages. It is very essential for us to learn the language which is being spoken in every part of India. Hindi is not a religious language. Some communalists try to confuse the people by bringing in religion. The official language of our state shall be Urdu but the English language shall, unless the new legislature is convinced otherwise and replace it, continue to be in vogue. It is not on the communal bases that we have adopted Urdu, which impression is wholly incorrect due to the fact that English shall still continue to be in vogue for sometime. English is not the language of the Muslims and Hindi is not a foreign language to them.

There is no reason as to why Kashmiri and Muslims will not take interest in learning Hindi when they have taken great pains to learn English.

The other problem pertains to the elections. It is being said that in the constitution of our state. Why should they then see a separatist? It is a move aimed to separate the state from India by having a separate Election Commission, the Sadar-i-Riyasat and a flag of our own. Some communalists say that we have acceded to India under some compulsion and express our separatist tendencies as occasion arises. They should know that we had decided to link our fate with India. Even at the time when in the name of Holy Quran we were threatened with guns and bullets. Even at such a critical time we had decide to knock the doors of India for help. I have already made it clear that the Assembly was convened in order to decide the question of accession to India. Clause 3 of the constitution makes it clear that our state shall be an integral part of Indian union. If it had not been our definite intention nobody on earth could have forced us to do so .we parted with Sheikh Sahib only when he began to think in terms of separation from India. It may be made clear that it was not done under the dictates of anyone. It was not due to the interference of India that he was arrested. He was removed from office by us because he came in our way in the matter of our accession to India and other matters. Unfortunately, some people want to frighten us by labeling us as communists in various newspapers. They should know that we are not afraid of anyone. The provision for the appointment of an independent Election commission not with standing clause 3 of the draft constitution makes them presume that Kashmir may secede from India. They are, however, wrong in their presumption. If Kashmiris had any such intentions they could have acted accordingly without anybody's fear. These people are very much perturbed to see that we

have a flag, an elected Sadar-i-Riyasat, an independent Election commission and our own regional language and, therefore, they presume that we intend to secede from India. These people see different flags hoisted on buildings and cars in India and are not annoyed at all but somehow the flag of our state is an anathema to them. Raj-pramukhs are allowed to use their dynastic flags. Should we say that the flag of our state, under which the freedom struggled was started by Kashmir's, signifies separatism? It is sad to note that these people are not annoyed to see the different colours of the Indian army units, educational institutions and the Red Cross society but are perturbed only at the sight of the flag of our state. Likewise appointment of an independent Election commission seems a separatist tendency to them. I may ask them if there is no election machinery in the Punjab, U.P or Bombay. Why are they pained to see it in Kashmir only? Election machinery in U.P., the Punjab and Bombay is set up by the Election Commission while the Election Commission of our state shall be appointed by the Sadar-i-Riyasat, who is elected by the representatives of people. Neither the Army nor the staff of the Central Government is sent to conduct elections and to prepare the electoral rolls in these states. Similar provisions have also been made tendency in it. May I know if the impartiality of the Sadar-i-Riyasat can be challenged under such condition? In my opinion it is an unnecessary apprehension. I am pained to say that they do not try to understand the whole question. In every state of India, Governor is appointed by the President, of course, in consultation with the Government of that particular state. Whenever president appoints a governor of any particular state he does not go against the desires of the government of that state. The governor represents him in that particular state. But in Kashmir the Sadar-i-Riyasat is appointed on the recommendation of the Assembly and that of the popular

Government and thereafter recognized by the president of India. On the one hand, the Sadar-i-Riyasat will represent the president of the Indian republic in our state and on the other he will be the elected representative of the state. He can be removed from his office only with the consent of the people. We have to appoint the head of our state only with the consent of the Assembly. Should not we consult the Assembly? Why should anyone dislike such a procedure? We have given the people the power to elect the head of the state. Does it amount to a separatist tendency if we have democratized the whole procedure by providing consultation with the people besides consulting the Government also in this behalf? They say that a separatist tendency will develop in Kashmir by her having an independent Constitution. If it is alleged that we are creating separatist tendencies then the Indian Parliament is also a party to it, for it has allowed the convening of a Constituent Assembly in our state.

It has been mentioned in the Indian Constitution that Kashmiris will have a constitution Assembly of their own. It has been also recognized by the Pandit Nehru and by the largest representative political party of India. It is on the basis of these assurances that we are framing the constitution which will be adopted and enforced. Where lies the separatism in it? The peasants and workers of India do not raise any objection regarding the colour of our flag. They do not believe in the merger of our state. About 90% of the Indian population fully supports us. There are a few people who in order to attract public attention try to make political capital out of it. Some times they raise the issue of language and say that Urdu in Kashmir is being declared as Official language for the sake of Muslims while Hindi is being ignored. It is quite contrary to the facts. We will be very much pleased if in addition to Hindi any other language like German or French is also learnt by our people.

Our constitution guarantees that elections will be conducted in a fair and impartial manner. These will be as fair as they are in any other state of India. Besides, we will have a Parliamentary Democracy similar to that of India. The elections will be held on the basis of adult suffrage irrespective of the property qualifications. The only condition is that the voters must be state subjects. In view of this arrangement it does not look reasonable to doubt the fair conduct of elections. The enforcement of the constitution is an ample guarantee for the holding of fair elections. An Academy is being set up for the purpose of developing art and culture and the regional languages of our state. Other regional languages will also be developed in spite of the fact that Urdu will be the official language of the state Hindi will also be developed on our state, just as various languages in India are being developed. The Indian constitution has been modeled on the lines of British parliamentary democracy. There is a parliamentary democracy in Britain and the people are enjoying its Fruits. I am saying this to show that the consciousness of the people is a guarantee for a democratic constitution. You know the people there have protested to the government and have declared that democracy does not mean to attack Egypt with bombs. The people are getting annoyed and it is not possible for the government to suppress them. The Security Council has requested the British and the French government for a cease – Fire but they do not agree to it because they want to conquer Egypt and enslave her against the wishes of her own people. America is also trying to stop this aggression but with no result. A cease-Fire may be brought about what will be the condition of Egypt by that time. According to the Security Council charter the issue can be discussed even after the cease-Fire but the articles of this chapter cannot save Egypt at this moment. It is only the public opinion of the world which can save Egypt. The sentiment of the

people of India, Pakistan and other countries can force the big powers of the world to save Egypt. It is in view of these sentiments that the big powers are now taking steps to intervene and bring about cease-Fire in Egypt. Mr. Goni has made a mention of Hungary. It is my personal opinion that aggression against a country is different from the suppression of internal disturbances in a country. So far as the Question of Egypt is concerned, it has been attacked by England and France. It cannot be confused with the problem of Hungary. The people of Poland and Yugoslavia say that efforts are being made to strengthen the socialist system there while the attack on Egypt was the result of an imperialist intrigue. If Kashmir has been an independent state, these people would have forced us to challenge the Indian forces which have been called by us for maintaining law and order. The problems of Egypt and Hungary are not similar, as already stated by Mr. Nehru the trouble in Hungary can be considered as a national uprising. Had I been a citizen of that country, I would confidently have given you a real picture of the happenings there perhaps this problem could be solved more peacefully, but it is a problem of their own which they can understand themselves. My submission is that British imperialism came out in a naked and brutal Fashion against the people of Egypt and there is no comparison between this imperialist attack and the uprising in Hungary. Mr. Goni tried to treat both these issues on the same level which I am sorry to speak, I can not accept.

***Mr. G.L. Dogra:** Sir, you have received some telegrams from various people regarding the language problem of the state and I beg to say something in this connection. We have also received a number of telegrams wherein it was stated as to why simple Urdu has been declared as the official language of the state instead of Urdu. It needs explanation to remove the misunderstanding among the people. We have adopted Urdu as an official

language. There is no language as simple as Urdu. The problem of script is a different one and the question of language has no bearing on it. The conflict between Hindi and Urdu existent in India will not arise in our state and the solution found out by us will be a guide to others. Pandit Nehru has stated that if simple Hindi is written in Persian script it amounts to Urdu. So there simple Urdu is written in Devangari script it amounts to Hindi and if no difference between Hindi and Urdu is spoken by the common people. By adopting Urdu language no basic change in our policy has been made and this was the point which I wanted to clear.

***Mr. President:** The question is:

“That clauses 138 to 146 of the Tenth and Eleventh parts of the Draft Constitution stand part of the constitution of Jammu and Kashmir”.

Note:- The motion was adopted.

Mr. President: We adjourn till Eleven O’clock, tomorrow.

Note: The House then adjourned till Eleven O’clock on Wednesday, the 7th November, 1956.

Wednesday, the 7th November, 1956/22nd Katik, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, at eleven O’clock.

Mr. President (Hon’ble G. M. Sadiq) in the chair.

Mr. President:- Today we shall take up Clause 92 of part VI which could not be discussed.

***Mr. G. L. Dogra:** Sir, I move:-

“In clause 92, the following shall be added as sub-clause (6) namely:-

(6) Every proclamation under the section shall, except where it is a proclamation revoking a previous proclamation, be laid before each House of the Legislature as soon as it is convened.”

So far as clause 92 is concerned, there was an omission with regard to the reference to the Legislature of any proclamation made by the Sadar-i-Riyasat. The object of the amendment is that if and when an emergency proclamation is issued it shall be laid before the Legislature for discussion.

Mr. Assadullah: Sir, I second the amendment.

Mr. President: if any Hon’ble member desires to say something on this amendment, he may do so.

***Mr. Mir Qasim:** Sir, I would like to say something in support of the amendment relating to clause 92 is applicable only when a Government may not be able to function in the State under the Constitution. In view of the convention followed by the Parliamentary democracy, when a party in the Assembly is unable to form a Government to function in accordance with the provisions of the Constitution and with the support of the Assembly the Sadar-i-Riyasat is compelled to assume by proclamation to himself the powers of the legislature. This proclamation is placed before the Legislature when it may be in session later on. This clause does not relate to any emergency, which means, that the Head of the State cannot suspend the Constitution but can only assume powers to run the Government in accordance with the Constitution. This clause will come into operation only when a Government commanding the confidence of the Legislature may not be formed. Any proclamation made under clause 92 shall remain in force only for six months and after the expiry of this period it will become imperative to place it before the Legislature provided the Legislature is in

session. Clause 92 empowers the Sadar-i-Riyasat to assume the powers for running the Government only for six months and after the expiration of that period, the proclamation shall have to be laid before the Legislature for further consideration. In case of dissolution of the Assembly, fresh elections to the Assembly are conducted within the period of the proclamation remains in force.

Note:- The star mark before the names of members in the speech portion indicates that the speech was delivered in Urdu and the English translation thereof has been incorporated in the debates.

Mr. President: I think there is no opposition to this amendment.

Voices:- No Opposition.

Mr. President: That clause 92 as amended does stand part of the constitution.

Note: - The motion was adopted.

Mr. President: Now clause 147 to 158 of parts XII and XIII will be considered.

***Mr. G.L. Dogra:** Sir, I move that:-

“In clause 147

(1) The following provision shall be added, namely:-

‘Provided that a bill providing for the abolition of the Legislative Council may be introduced in the Legislative Assembly and passed by it by a majority of the total of not less than two-thirds of the members of the Assembly present and voting.’

(2) In the existing Provision for the words, ‘Provided that’, the words ‘Provided further that’ shall be substituted.”

Sir, this amendment relates to Clause 147 which provides as to which of the clauses are not subject to amendments and also lays down the procedure for amending the rest of the clauses. Ordinarily a majority not less than two-thirds of the total membership of each House should be in favor of the amendments moved and in that event alone the Constitution can be amended.

So far as the dissolution of the Upper House is concerned, it requires a separate procedure in view of which an amendment has already been brought forward. In view of this the Drafting Committee thought it necessary to introduce this amendment to evolve a procedure so that when a Bill is presented to the House and a majority of two-thirds of the members adopts it, it shall be considered as passed. When this bill takes the shape of a Law, the Upper House can be dissolved. It is not a new thing. Such powers are vested in the Legislative Assemblies in India also. Members of the Lower House elected on the basis of adult franchise must be authorized to dissolve the Upper House when the people so desire. I hope the House will agree to my amendment.

Mr. S.L. Saraf: Sir, I second it.

***Kotwal Chuni Lal:** Sir, Clause 147 is one of the most important clauses of the Constitution under which amendments to the Constitution can be made. Under this clause there is a condition that in order to amend the Constitution any amending bill introduced in the Legislative Assembly cannot be passed until it is supported by a majority of two-thirds of the members of each House.

Besides, there are four such provisions as have been declared not subject to amendments. The first clause which can in no way be amended by the Legislative Assembly is clause 147. The Second is Clause 3 which deals

with the accession of the state. Under this clause of the constitution, Kashmir has been declared as an integral part of India and no Legislative Assembly can henceforth amend this clause. We are sure that after adopting this clause, uncertainty prevailing in the State would be put an end to. We again stand by the pledge of the national Conference that Kashmir is an inseparable part of India. The third one is clause 5 of the constitution. It provides that the executive and Legislative power of the state extends to all matters except those with respect to which Parliament has power to make Laws for this state under the provisions of the constitution of India. Fourthly, all those sections of the Indian Constitution which apply to the state cannot be amended by the state Legislature. These four provisions have been declared to be not subject to any amendments. The Legislative Assembly is empowered to make any amendment in the constitution excepting the provision existing in clause 147.

The amendment moved by Mr. Dogra is to the effect that the Legislative Council can be dissolved by the Legislative Assembly. This amendment has already been supported by the Hon'ble members. The procedure already laid down in Clause 147 has now been somewhat relaxed in as much as that the Legislative Assembly can, at any time when it deems necessary, dissolve the Legislative Council in the exercise of its powers. Other provisions contained in this clause will not be applicable with regard to the dissolution of the Legislative Council. If this provision is not adopted it would mean that the Legislative council would be liable to dissolution with the two-third majority of the members. But now under this provision the Legislative Assembly has been empowered to decide the question with the majority vote similarly as is done in the case of Legislation. It is an important clause and I have endeavored to explain the main four

fundamental principles underlying this clause and I do not want to say any thing more on this point.

Part XIII contains provisions pertaining to the transitional period regarding executive and the Legislative pending the setting up of both Houses of the Legislature under this Constitution. I, therefore, second the amendment that is under decision in the House.

***Sardar Kulbir Singh:** Mr. Chuni Lal Kotwal, has expressed his opinion on the clauses which are under decision today in the House. He has referred to all those difficulties which will not only create confusion in the minds of the people of the state but also in the whole world. That uncertainty has also been put an end to by this clause which had lately been created. The intriguing atmosphere created by the interested parties who were hostile to the integrity of the state was discussed by the sovereign organization of the people, the National Conference, in a General Council meeting and after expressing its grave concern through a resolution over the mounting International Machinations hindering the progress and prosperity of the state it was decided to set up a Constitution assembly in the state which would take a final decision in regard to accession issue in order to put an end to uncertainty and chaos. Accordingly the Constitution assembly took decision in regard to the accession of the state in view of which some interested powers became restive. In consequence of this decision some of the countries leveled criticism in this behalf. In view of our decision these intriguing powers have absolutely no right to express their opinion or criticize it which has been taken after full consideration by the elected representatives of the Jammu and Kashmir. On the other hand Democratic and peace loving countries considered this decision of the Assembly justifiable. These countries considered our decision as democratic and final.

It was these intriguing powers on whose instigation Kashmir was attacked some nine or ten years back and when the question of aggression was taken to the UNO. These powers try to create intrigues on International level. By reason of the provisions that we have made in the Constitution all the intrigues have been put an end to forever. The decision taken in respect of accession has been accepted by all the freedom loving people of the world, the Indian Government ends the Parliament. The step taken by us is considered to ensure our future progress. I think that the decision with regard to accession is complete and final and no intriguing power of the world can undo what we have done in this behalf. Such powers shall have no back door to step in our countries to indulge in intrigues. All uncertain conditions which obtained in our country since the last ten years have been put an end to. This clause in the constitution clarifies the position of Kashmiri people vis-à-vis the Indian people.

In this connection I would like to draw the attention of the Drafting Committee to the provisions in the constitution wherein it has been laid down that future election would be held on the basis of the same constituencies which were delimited in 1951. Although it has also been provided that these can be modified if and when required still it was incumbent on the Drafting Committee to see that since 1951 such refugees have also come to the state as were living in refugee camps at Kangra and other places. They comprise of permanent residents of the state and spread over different tehsils of Jammu. For instance, 8,000 refugees are in Hiranagar Tehsil, 5,000 in Samba and 35,000 in Ranbirsinghpura, Poonch and Rajouri. The total strength of this population is about 1 1/2 lakhs. This Number has also to be taken into consideration in this behalf so that they may be in a position to exercise their right of Franchise. I would, therefore,

request that these scattered nationals of the state should also be kept in view while delimiting the constituencies. It has been provided in the constitution that the population Figures of 1941 will not be taken into consideration but such constituencies will remain the basis for election as were delimited in 1951. I would request the drafting committee and its chairman to clarify the position and remove the doubts of the people.

Mr. G.I. Dogra: Sardar Kulbir Singh has drawn attention to question of delimiting of constituencies. So far as his views are concerned I may point out that the Drafting Committee has already made appropriate provisions keeping all things in view in this behalf. I assure him that such refugees as are scattered over in different constituencies will be included in the local population and treated equally and there will be no discrimination whatever. I hope this assurance will satisfy Sardar Sahib. This is a genuine demand and will not be ignored.

Mr. President: Now the question is:

“In clause 147

(1) The following proviso shall be added, namely:-

‘provided that a bill providing for the abolition of the legislative council may be introduced in the legislative Assembly and passes by it by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting’.

(2) In the existing proviso for the words ‘provided that’ the words ‘provided further that’ shall be substituted.”

Note:- The motion was adopted.

Mr. President: Mr. Ayub Khan

Note: - The Hon’ble member was not present in the House.

Mr. President: Mr. Ram Piara Saraf.

Note:- The Hon'ble member was not present in the House.

Mr. President: The Question is:

That under part xiii of the Draft Constitution clauses 148 to 158, as they stand in the Draft Constitution, shall stand part of the Jammu and Kashmir constitution.

Note:- The motion was adopted.

Mr. President: Today's business is over. We will meet here again tomorrow morning at 11 A.M.

Note:- The House then adjourned till eleven of the Clock, the 8th November, 1956.

Thursday, the 8th November, 1956/23rd Katik, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, at eleven O'clock.

Mr. President (Hon'ble G.M.Sadiq) in the chair.

Mr. President: Mr. Ram Piara Saraf.

***Mr. Ram Piara Saraf:** Sir, under rules 33, I seek permission to reopen the decision taken in respect of section 152 of the Draft Constitution.

Mr. President: the Hon'ble member wants that section 152 should be reconsidered and discussion there on be reopened under Rule 33. In order to reopen this discussion it is necessary that it should have the consent of at least one fourth of the members present and voting in the House. I would, therefore, request those members who are in favour of this proposal to stand up.

Note:- All the members rose from their seats.

***Mr. Ram Piara Saraf:-** Sir, I move that:

“In clause 152(1)

(1) In sub-clause (a) the word ‘and’ occurring at the end shall be deleted ;

(2) In clause (b) the word ‘and’ shall be added at the end;

(3) After clause (b) the following clause shall be inserted , namely :-

“(c) For re-adjusting changing or altering such of the existing Constituent Assembly constituencies as may be deemed necessary.”

And (4) after words ‘so modified’ the words “re-adjusted, changed or altered” shall be inserted.

Sir, while moving this amendment I have in view the fact that elections of a new Assembly will be held on the basis of the existing Constituent Assembly Constituencies. At the time of the last elections to the Constituent Assembly a constituency called the Poonch constituency was created which included the 32 thousand refugees of the then Nagrota camp who are no longer there and have since been re-habilitated in various tehsils, especially in R. S. Pora and Jammu. This constituency exists but in name now and the people included in it did not comprise a population of any contiguous territory. My amendment, therefore, is that the Sadar-i-Riyasat be empowered in this behalf so that, if he liked, he could combine one constituency with the other and re-adjust or make minor alterations in existing constituencies.

***Mr. Mohd. Ayub Khan:-** Sir, I second it.

Mr. G.L. Dogra:- Sir, I accept it.

Mr. President: The amendment moved by Hon’ble Ram Piara Saraf has been seconded and the Chairman of the Drafting Committee has accepted it. Should I take it that the House accepts it?

Note:- The motion was adopted.

Mr. President: Now the question is: “That section 152 as amended stand part of the constitution.”

Note:- The motion was adopted.

Mr. President: Now the schedules I to IV of the Constitution will be discussed.

***Mr. G.L. Dogra:** Sir, I beg to move:

“For Para 2 of the III schedule the following shall be substituted, namely:-

“2. (1) there shall be paid to the Deputy Speaker of the Legislative Assembly such salary and allowances as were payable to him immediately before the commencement of this constitution.

(2) There shall be paid to the Deputy Chairman of the Legislative Council such salary and allowances as the Sadar-i-Riyasat may determine.”

Sir, at the time when this Draft was prepared the Legislature had not by Law fixed any amount to be paid as salary to the Deputy Speaker and so it was considered proper that powers in this respect should be vested in the Sadar-i-Riyasat. But later the Legislature passed an act in this behalf and hence the present amendment has been considered necessary. Sir, so far as the salary and allowances of the Deputy Chairman of the Legislative Council are concerned it is the Sadar-i-Riyasat who has been empowered to determine these.

***Mr. S.L. Saraf:** I second it, Sir.

Mr. President:- The following amendment has been moved in respect of the 3rd schedule and has been seconded as well.

Note:- (Amendment repeated).

Mr. President: Should I take it that the House accepts this amendment?

Note:- The motion was adopted.

Mr. President: The Hon'ble members may speak about the schedules.

Note:- None rose to speak.

Mr. President: Now the question is; "That schedules I to VI with the III schedule as amended stand part of the constitution."

Note:- The motion was adopted.

***Mr. President:** The second reading except in respect of clause I and the preamble has been concluded. Clause I and the preamble alone remain to be brought under discussion. So far we have been taking up the Constitution Clause by Clause serially and I think we should take up the preamble and Clause 1 on Saturday. The amendments so far adopted will be entrusted to the Drafting Committee for their incorporation in the Constitution. Some other date, therefore, will be fixed for the 3rd reading. If the Hon'ble members have no objection this programme will be followed by the House.

Voices: it is acceptable to us.

Mr. President: Today's business is over and we shall again meet on 10th November, 1956, at 11 A.M.

Note:- The House then adjourned till Eleven of the Clock on Saturday, the 10th November, 1956.

Saturday, the 10th November, 1956/ 25th Katik, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, at Eleven O'clock.

Mr. President (Hon'ble G.M. Sadiq) in the chair.

Mr. President: The business to be taken up by this House today is not much. We shall now proceed with the consideration of clause 1 and the preamble Mr. G.L.Dogra.

***MR.G.L. Dogra:-** Sir, I move that the preamble of the Draft Constitution be taken into consideration and I also move that in the preamble 17th day of November, 1956, be specified as the day on which the Constitution shall be adopted.

Sir, no date has been fixed in the Draft Preamble; neither has it been made clear as to on which date the draft will be adopted for the Drafting Committee could not at the time, make an exact estimate in this behalf. Now we have almost finished the second reading and the third reading will be completed on 17th November, and we will adopt the Draft Constitution the same days.

***Mr.S.L.Saraf:** Sir, I second the motion.

***Mr.C.L.Kotwal:** Sir, today we are about to complete our task. The House is today considering the preamble of the Draft Constitution. I would like to submit that preamble forms the very soul of a law or a Constitution and it encompasses the main objectives thereof. The preamble of the Draft Constitution reminds us of the objectives and ideals of our freedom movement. This Constitution secures political, social and economic justice to the people and guarantees them freedom of speech, religion, worship and opportunities in other fields. Everybody's opinion will be respected. At the same time a desire has been cherished to see a spirit of brotherhood prevail in the country so that it takes great stride on the path of progress. This is what has been epitomized in the preamble. It is known to all the Hon'ble members that the people of the country have been enfranchised on the basis of adult suffrage. Everybody irrespective of all considerations of caste, creed

or colour, no matter to whatever, family or province he belongs, can secure economic and social justice. All these things have found place in the Draft Constitution. There are a number of articles in the Draft Constitution that guarantee payment of wages economic justice to every inhabitant of the state without any discrimination on the basis of caste, creed or sex. Abolition of exploitation and the like practices too has been provided for. We are laying the foundations of such an order as will exercise a restrain on Capitalism which has ground down the people, especially the toilers in the past. Unrestrained profiteering will not be allowed. This is the objective laid down in these Articles. Every inhabitant of the country will have equal opportunity for advancement whatever caste or creed he belongs to. As guaranteed in the Preamble to the Draft everybody will partake of social justice. All people will be equal before Law and there will be no discrimination of high or low. There will be no untouchables and no downtrodden and all will enjoy an equal status. We have declared in the Preamble freedom of thought, belief and religious worship and equal opportunities of advancement. Enjoying equal opportunities everybody will be free to subscribe to his own religious beliefs and express his views. These rights have been guaranteed by the Constitution and there is no restriction on these. So far people understood that high offices were meant for certain families only. Distinction of high and low was maintained. All those things were characteristics of that society but today these are being down away with. We are declaring through this Constitution that the dignity of the people will be maintained. We had been all along struggling for the achievement of these very values. One of the main features of the Draft Constitution is that it contains a directive for the promotion of a spirit of brotherhood among our various people which in its turn will be the biggest

guarantee for the preservation of our national prestige. Sir, brotherhood is a great virtue of the human race. By dint of birth all men are equal in whatever country or clime they are born. As regards their qualities nature does not make any discrimination. It endows man with brain and conscience which help him in his onward march. To serve humanity becomes his duty. Are not we incorporating this very duty of the human beings in our Draft Constitution and enjoin on our people to foster a spirit of brotherhood and fraternity among themselves so that there is love between man and man, no matter whether they belong to Jammu, Kashmir or any other place? We are today doing away with all discriminations. The inhabitants of this country whether they live in the hills or in the villages shall henceforth enjoy an equal status. In this way we are putting an end to provincialism, localism and sectionalism. Inspired with this spirit we have to strive for the advancement of the country. We have to infuse a new life into the people of the state. It is our aim that provincial bases and religious bigotry be put an end to. We have stated these things in the Preamble. A further study of the Draft Constitution reveals that we have proposed practical measures for the achievement of these objectives. For this purpose appropriate directives have been included in it for the Government, Legislature, the Judiciary and the Executive. As representatives, of the different Illaqs of the state we are today performing a great duty. I think that with the commencement of this Constitution we shall begin a crusade against poverty, unemployment, disease and ignorance and make our state a resplendent gem upon the forehead of India.

Mr. President:- The amendment moved in respect of the preamble is;

“That in the preamble 17th day of November, 1956, is specified as the day on which the constitution will be adopted.”

I think that the hon'ble member of this House agree to this amendment.

Voices: Yes, Sir, Yes, Sir.

Mr. President: The amendment is carried.

Now the question is that the preamble as amended by the House just now stands part of the Jammu and Kashmir constitution.

The motion was adopted unanimously.....(**Prolonged cheers**).

Mr. President: Mr. G.L. Dogra.

***Mr. G.L. Dogra:** I move the following amendment to clause I of the Draft constitution, namely:-

For sub clause (2) of the said clause the following shall be substituted:

“(2) This section and sections 2, 3, 4, 5, 6, 7, 8, and 158 shall come into force at once and the remaining provisions of this constitution shall come into force on the twenty-sixth day of January, 1957, which is referred to in this constitution as the commencement of this constitution.”

Sir, the House has passed the Draft Constitution in its second reading and it is now necessary that the date of its commencement is fixed. It is our opinion that January, 1957, will be the most suitable day for the purpose. Meanwhile it is essential that certain clauses of the Draft constitution are adopted and brought into force forthwith. Such clauses include clause 1, in which the constitution has been defined; clause 2 which gives other definitions; clause 3 which declares the Jammu and Kashmir state as an integral part of India; clause 4, which defines the territory of the state; clause 5, which prescribes the extent of executive and legislative power of the state clause 6, which contains the definition of a permanent resident; clause 7, which deals with the construction of references to state subjects in the exiting laws; clause 8, which authorizes the legislature to define permanent

residents; and clause 158, which pertains to the application of the general causes Act in matters of interpretation of the constitution just as it applies for the interpretation of an act of state legislature.

Sir, these matters are of urgent importance and it is in view of this that the present amendment has been proposed to sub- clause (2) of clause 1 of the Draft constitution. It is an important amendment and I hope that the House will adopt it.

***Mr. Assadullah Mir:** Sir, I second it.

Mr. President: Mr. Mir Qasim.

***Mr. Mir Qasim:** I support it.

Mr. President: The amendment put before the House by Mr. Dogra has already been seconded. Should I take it that the House accepts it?

☛ The House agreed and the motion was adopted.

Mr. President: now the question is:

“That clause I as amended stand part of the Jammu and Kashmir constitution.”

The motion was adopted.

***Mr. G.L. Dogra:** Sir, I would request you to fix 14th November, 1956, as the date for the adoption of this constitution.

Mr. President: The Hon’ble member has put forth a proposal before the House to the effect that the third reading of the constitution should begin on 14th November, 1956. Since some amendments have been made in various clauses of the draft Constitution during the course of the second reading and since at places a need for verbal alterations may be felt, it would be proper in my opinion to refer it again to the drafting Committee along with the amendments adopted by the House so that they may take these into consideration once again and present it to the House on 14th November,

1956, after incorporating these amendments. The third reading will begin on the same day. I think the House agrees with me in this behalf.

Voices: to refer it again to the drafting Committee along with the amendments adopted by the House so that they may take these into consideration once again and presents it to the House on 14th November, 1956, after incorporating these amendments. The third reading will begin on the same day. I think the House agrees with me in this behalf.

Voices: Yes, Sir, Yes, Sir.

Mr. President: Thus it is the opinion of the House that the Third reading of the Draft Constitution should begin on 14th November, at 11 A.M. here and in the meanwhile the Drafting Committee should give it their full consideration and present it to the House in the final form.

With this concludes our business for today. We shall again met here on 14th November, 1956 at 11 A.M.

Note: The House then adjourned till Eleven of the Clock on Wednesday, the 14th November, 1956.

Wednesday, the 14th November, 1956/29th Katik, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, at Eleven O'clock.

Mr. President: Mr. Mir Qasim.

Mr. Mir Qasim: Sir, I move:

“This Assembly do accord its concurrence to the application on the lines herein set out of the following provisions of the Constitution of India to the State, namely:-

- a) Article 149 and 150 omitting the modifications made by clause(f) of paragraph 5 of the Constitution (Application to Jammu and Kashmir) Order, 1954;
- b) Clause(2) of Article 151 subject to the modification that the reference to the Rajpramukh shall be construed as reference to the person for the time being recognized by the President as the Sadar-i-Riyasat of Jammu and Kashmir; and
- c) Entry 76 in list I (Union List) in the Seventh Schedule omitting the modification made by Sub-Clause (IV) of Clause (a) of paragraph 22 of the Constitution (Application to Jammu and Kashmir) Order, 1954 in so far it relates to this entry.

This Assembly do also authorize the Government of Jammu and Kashmir to communicate a copy of this resolution to the Government of India for appropriate action.

I move that this resolution be passed.

Mr. Sham Lal Saraf: I second the resolution.

Mr. President: Does anybody want to speak? No body rose to speak.

Note: The star mark indicates that the speech was delivered in Urdu and the English translation thereof is incorporated in the debates.

Mr. President: The motion moved by Mr. Mir Qasim has also been seconded. Now the question is that the motion be adopted.

(**Note:** The Motion was adopted).

Mr. Bhagat Ram Sharma: Sir, my amendment to this Resolution whereof I had given a proper notice has not been taken up.

Mr. Present: Just now I enquired from the Hon'ble members if anybody wanted to speak on the subject but no body stood up to speak.

Mr. Moti Ram Baigra: Sir, there was one amendment of the Hon'ble members which has also been circulated.

Mr. President: Unfortunately that amendment was not in keeping with the resolution, it pertained to an executive action which the Government can separately taken at any time and therefore that cannot form part of the Constitution.

Mr. President: Mr. Mir Qasim.

Mr. Mir Qasim: Sir, I beg to move: "This Assembly do accord its concurrence to the application to the State of the provisions enacted in the Constitution (Sixth amendment) Act, 1956, amending the Constitution of India, except in so far as they relate to the amendment of the State list in the Seventh Schedule.

This Assembly do also authorize the Government of Jammu and Kashmir to communicate a copy of this resolution to the Government of India for appropriate action."

Sir, the idea behind this motion is to get the concurrence of the House to the application of the provisions of Constitution (Sixth amendment) Act, 1956, to our State. Their application will be greatly beneficial to us. The receipts from the interstate Sales Tax are pooled at the Centre. Kashmir State will also be entitled to get its due share from these receipts. There is no idea

to impose any new tax. The idea is that in case this State purchase anything from other States that tax is charged from the source. The application of these provisions would enable the State of Jammu and Kashmir to get its share from the amount of tax collected in Central pool.

Mr. Assadullah Mir: Sir, I second the motion.

Mr. President: Does anybody want to speak on the subject?

(**Note:** Nobody rose to speak).

Mr. President: Now the question is that he motion of Mr. Mir Qasim be adopted.

Note: The motion was adopted.

Mr. Mir Qasim: Sir, I move that:

“All orders passed, sanctions issued and action taken by the President, Constituent Assembly, from time to time with or without consultation of the Finance Committee, in respect of administrative, financial and other matters pertaining to the conduct of work of the Assembly office including creation of posts, sanction of appointments and promotion prescribing the terms and conditions of service of the staff of the Constituent Assembly and grant of leave, traveling and other allowances to members of the Assembly or the staff are hereby confirmed and validated.”

Sir, this resolution seeks to validate all the steps and actions taken by the President, Constituent Assembly in connection with appointments TA and allowances etc. just as the Government has a Finance department to advise them on certain matters, similarly here in the Constituent Assembly we have a Finance Committee which is being consulted by the Hon'ble President in all those matters in respect of which its advice is essential. The purpose of this resolution is to confirm all the steps taken by the President Constituent Assembly with or without the consultation of the finance

Committee in respect of creation of posts, sanction of appointments and promotions and grant of TA and other allowances and etc., so that there remains no doubt about such actions being valid and correct.

Mr. Sham Lal Saraf: Sir, I second the motion.

Mr. President: The resolution moved by Mr. Mir Qasim is now before the House. Those Hon'ble members who are in favour should say "Yes" and those who are against say "No".

Note: The motion was adopted.

Mr. President: Mr. Mir Qasim.

Mr. Mir Qasim: Sir, as authorized by Mr. G.L. Dogra, I move:-

"Resolved that the office of the Constituent Assembly with its sanctioned strength of establishment be renamed with effect from 26th January, 1957, as the Secretariat of the Legislature under the new Constitution and the staff both gazetted and non-gazetted on the roll of that office on the aforesaid date do continue to serve, without any interruption on their respective posts and in their respective pay scales (with allowances where sanctioned) as if the office of the Constituent Assembly has not been abolished.

Resolved further that all powers of appointments, discipline and control-Administrative and financial-in respect of the Secretariat of new Legislature be exercised by the Speaker of that Legislature in accordance with the Rules and Regulations for the time being in force."

The purpose of this resolution is to declare the staff of the present Constituent Assembly as the staff of the Legislature under the new Constitution from 26th January, 1957, the date of enforcement of this Constitution so that the services of the incumbents continue without any break or interruption. Constituent Assembly is everywhere a sovereign body and it was, therefore, felt necessary to safeguard the staff from any break in

their services and to convert it into the staff of the new Legislature. This resolution also proposes that all powers exercised by the President Constituent Assembly be exercised by the Speaker Legislative Assembly.

Mr. Assadullah Mir: I second it.

Mr. Moh'd Ayub Khan: Sir, before this motion is put to vote I want to get it clarified by the Hon'ble member (Mover) that there exist certain posts in the Constituent Assembly Secretariat which are of technical nature. For example; the post of Constitutional Assistant, the service of the incumbents whereof were needed in connection with the preparation of Draft Constitution of the State. I cannot understand as to where lie the necessity of retaining these posts which will automatically be rendered superfluous and unnecessarily after the Constitution is finalized and passed. Before the resolution is put to vote it is necessary to take this fact into consideration as to which of the post must be retained and which are rendered superfluous and should be abolished. I am of opinion that besides these posts, there would be other posts as well, need not be retained. Therefore my submission is that only those should continue to exist without which we cannot do.

Mr. Bhagat Ram Sharma: Sir, I received the copy of this important resolution just today and could not submit my amendment for want of time. I would, therefore, request you to postpone the discussion for some other day so that I find time to submit my amendment to this resolution. Sir, my amendment which I propose to submit, is that the staff of the Constituent Assembly, should, on its dissolution be given one month's pay in appreciation of the services which it rendered very efficiently and diligently for the last five years.

Mr. President: Hon'ble member can move a resolution to this effect afterwards also.

Mr. Bhagat Ram Sharma: Sir, Mr. Ayub Khan has said that there exist certain posts in the Assembly Secretariat which become superfluous upon the dissolution of the Constituent Assembly. If the discussion on this resolution is put off to some other day in future, it will not only give this House a chance to examine this point but will enable the members to submit their amendments also.

Mr. President: Despite the fact that I do not like to take any part in this discussion I think it necessary to interfere. As far as this resolution is concerned, I think that the House feels the necessity of passing it. Only one objection has been raised to the effect that it would not be advisable that the two posts of Constitutional Assistants which had been created for the sole task of preparing the Draft Constitution are continued even after the completion of Constitution. The Hon'ble member who had raised this objection will appreciate the need of retaining these posts if he only tries to see that on account of the creation of various Committees last year the present staff of the Assembly cannot cope with the ever increasing volume of work. It was this object in view that the designation of two Constitutional Assistants was changed before the completion of Draft Constitution and one of them was given the charge of Printing and Publication and another was kept incharge of Committee work. So long as the Constitution is not completed they will work as before and after that their services will be required in legislative Assembly.

S. Harbans Singh Azad: Then their designation should be changed.

Mr. President: Those have since been changed.

Mr. Mir Qasim: Just as you have done, Sir, I would also like to clarify some points. If Mr. Sharma feels the necessity of submitting his proposal, he

can very well do so because the Session will continue for one or two days more.

Regarding the objection raised by Ayub Khan, I would submit, that at the time of the creation of these posts, it had become clear to us that even after the dissolution of Constituent Assembly the Legislative Assembly staff will have the hand full and that there is no likelihood of any post being rendered superfluous and unnecessary at that time. Whenever any post will be found to be superfluous, it can be abolished and likewise new posts can be created in future. As far as the present staff is concerned, there is no superfluous hand in it Hon'ble Finance Minister who is the Financial Advisor to the Government in such matters had examined this resolution and he had to move it in the House. Had he been here, he would have explained each and every thing himself. Sharma Sahib had gone so far as to stress the need of giving some allowances to the members of the staff in appreciation of their diligent and efficient work, this resolution only seeks to continue the services of the staff without interruption in the Legislative Assembly. I think that the members of this House agree on it.

Mr. President: Now the question is that the resolution which is before the House be passed. Those Hon'ble members who are in favour should say "Yes" and those against should say "No".

Note: The motion was passed unanimously.

Mr. Mir Qasim: Sir, I beg to move that the Draft Constitution as revised by the Drafting Committee in accordance with the decisions taken by this House during the second reading and move that the Draft Constitution be passed.

Mr. G.R. Renzu: I second it, Sir.

S. Harbans Singh Azad: Sir, I would request that the discussion be postponed till tomorrow, so that some time be given to the Hon'ble members for looking into it.

Mr. President: Mr. Mir Qasim has moved a motion that the Draft Constitution as revised by the Drafting Committee be passed, it has also been seconded but Sardar Harbans Singh Azad wants me to postpone the discussion till tomorrow. So if the House agrees, the discussion will be taken up tomorrow.

(Voices: Yes Sir, Yes Sir).

Mr. President: So we would meet tomorrow at 11.30 AM and take up the discussion.

(Note: The House then adjourned till tomorrow, the 15th of November, 1956, at 11.30 AM).

Thursday, the 15th November, 1956/Ist Maghr, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palaces, Srinagar, at Eleven O'Clock.

Mr. President: (Hon'ble G.M. Sadiq) in the Chair.

***Sardar Harbans Singh Azad:** Sir, I remember that in the year 1951, when the Constituent Assembly was convened I had stated that this Constituent Assembly is fully competent to take any kind of decision, and whatever decision it took was final and irrevocable. I had stated that any decision whether big or small, taken by this Assembly shall be deemed to be a final and ultimate decision of the people of this State. No power not even the U.N.O could change this decision. Any decision taken at Paris, London or at

any other place, could not be made binding upon the people of this land. Further I had stated that only those decisions could be acceptable to the people which were or shall be taken here by the representatives of the people. I am glad to find that under the Chairmanship of Sadiq Sahib it has become possible for us to take up the third reading of the Draft Constitution today. The solution of the issues that were before us at the time this Assembly was convened has been found out and you see this solution in the shape of Draft Constitution. We have incorporated our decisions therein and same are final and irrevocable. This fact will have to be recognized by all those powers who have their greedy looks on our land.

Sir, I would like to recall that in the year 1951, when general elections were held, the only issue before the Assembly was, to ratify the accession of the State to India. We have ratified that accession for which we were sent here by the people. We are today fulfilling the promise that we extended to them.

For the last four hundred years this country was under the fetter of slavery. How terribly it suffered during this period of servitude, is not hidden from anybody. We have shattered the whole edifice of monarchical rule. Until now we were governed by a Constitution which was not framed by us, instead it was clamped down upon us under the dictates of a Maharaja against whom the people of this

Note: The star mark indicates that the speech was delivered in Urdu and the English translation thereof is incorporated in the Debates.

Country fought for the last seventeen years. We are finalizing our Constitution today, and I hope that the people will always be ready to lay down their lives in the cause of defending this Constitution which is being framed according to their wishes. Sir, I would like to draw the attention of

the House to that great people's movement which has made it possible for us to give ourselves a Constitution that reflects all those hopes and aspirations which our people for a long time in the past nursed in the depths of their hearts.

To give practical shape to those desires and aspirations must be our main task now, otherwise it will be a mere paper Constitution of no significance. Unless the three main organs of the Governmental setup, i.e. Legislature, Executive and Judiciary work with a keen sense of responsibility we cannot say that we have given a workable successful constitution of our country. When these three organs work independently within their respective spheres of influence, and live up to the principles of this Constitution. We can claim the credit of having the principles of this Constitution. We can claim the credit of having produced a successful Constitution. We have made our Judiciary as independent as the Judiciary of India is. If the Judiciary does not maintain its independence, and the judges of the various courts in the State do not act impartially, we can openly say that the main prop of our democratic setup is weak. Any structure whereof even a single prop is weak, cannot last for long. It is for the Judiciary to protect the Fundamental Rights of the people, besides implementing the law passed by the Legislature. Whenever the Legislature and executive behave in a manner inconsistent with the wishes of the people, the latter looks for help from the Judiciary and if the Judiciary would not function impartially the chapter of Fundamental Rights will remain dead letter for the people. Likewise, guarantees about the security of services will be meaningless. Now when the Judiciary has been invested with full powers, I hope the Legislature and the Executive, will give an opportunity to the Judiciary to work independently and with a full sense of responsibility. I know that it is

for the Executive to give practical shape to the Constitution. Now the Executive will have to undergo a test in implementing this Constitution passed by this Assembly, and if the Executive does not work with efficiency, integrity and impartiality, the Constitution will remain a dead letter and the aspirations of the people will be due for good. Likewise it is for the Legislature to control the Executive and to make it work according to the wishes of the people. It is for her to see that the Executive is working according to the wishes of the people, and it should keep its control over it in such a manner that both the Executive and the Judiciary feel that the Legislature which is a source of all powers does discharge its duties well.

In this Constitution one more guarantee has been given to the public and that is about the establishment of the Public Service Commission. No recruitment to the public services would be made without the consultation of the Public Service Commission. In this Constitution it has been laid down that equal opportunity in education and employment etc., will be provided to the sons of soil of all classes, irrespective of the consideration of the community or area they belong to. Now all young men, even if they hail from such a backward area as Karnah, Ladakh, Poonch or other places will be furnished with an opportunity to demonstrate their efficiency and learning. The poor young man shall have the right to compete with a young man coming from a rich family, and this step is really a framed, many young men from poor families were given very high posts. This Constitution also guarantees that preference will be given to efficiency. A poor man will never suffer for want of recommendations or on account of the fact that he does not belong to the city. Any person who will qualify himself in the examinations conducted by the Public Service Commission will be eligible for the Government services. Under this constitution security of services has

been guaranteed in the same manner as in the Constitution of India. In this connection I would like to quote the words of Mr. Joseph Chamberlien. About services he has remarked:

“I have a shrewd suspicion that you could do without us but I have an absolute conviction that we cannot do without you.”

This clearly shows that the Government can work even without the “political executive” i.e., the Cabinet but without services it is difficult to run the Government. Therefore, it is essential to ensure security of services to the Government employees. I am glad to find that in this Constitution security of services has been guaranteed. This guarantee has been given in accordance with the guarantee given under article 311 of the Indian Constitution wherein it has been provided that the Government cannot suspend or dismiss anybody without giving him an opportunity of showing cause against the action proposed to be taken against him. It is obvious, that any country where security of services has been provided and the services are kept under efficient control and vigilant watch will be on the way to prosperity and advancement.

The Government employees should change their attitude and behaviour. They should work in close co-operation with the public for the advancement of the country. They should work with zeal and honesty and should put in hard work so that the country is made prosperous.

Sir, I have just now stated that Legislature should remain vigilant and see that the ‘Executive does not work against the spirit of the constitution. The Constitution that is being passed today lays down that the Executive must work according to the wishes of the people. The Legislature should make it incumbent on the government to throw such officers out who do not work honestly and who are slack in their duties; it would also keep strict

control over the expenditure of the Government. One more guarantee has been provided in the constitution and that is in respect of election Commission. This is a statutory guarantee. The members of the Commission will be appointed by the Head of the State. This is also a big guarantee. I hope the Election Commission will also work with a keen sense of a responsibility and integrity, so that the people are able to cast votes in favour of men of their own choice, and are thus given a chance to choose their own representatives for safeguarding their rights. If Election Commission performs this duty, the object of secret balloting will naturally be fulfilled. If the Executive lags behind, the responsibility of defending the rights of the people is that of the legislature. Legislature can feel its responsibility only when it consists of people's representative and peoples representatives are returned only when Election Commission functions impartially. I hope the Commission will strengthen the democratic ideals in the State and thereby prove itself a strong pillar of the popular Government.

***Mr. Moti Ram Baigra:** May I request you, Sir, to fix time for each speaker as many other members want to speak today.

***Sardar Harbans Singh Azad:** Sir, I know that Mr. Baigra will not speak anything himself, but he has much regard for his other friends. As envisaged in "New Kashmir" National Conference has promised that the future order of society to be established in the State after the attainment of freedom will be socialistic. That promise is being fulfilled today. Under Directive Principles it is required of the Government to evolve such a pattern of economic setup as will make it, possible to establish a socialist order of society in the State. It is under socialistic order of society alone that every citizen enjoys the benefits of equal opportunities and the capital is not allowed to concentrate in the hands of those few who are already rich.

Instead every citizen is allowed to rise and prosper according to his talent and mental capabilities. The Directive Principles can never serve any purpose unless socialistic order of society is established and efforts are made to improve it in every possible way. I hope that every future Government of the State would try to mould the economic setup of this State quite in accordance with the directives laid down in the Directive Principles of the Constitution. It has also been emphasized in the Directive Principles that special care must be taken to bring about economic betterment of the backward communities and areas of the State and that their interest are also safeguarded. The Socialistic pattern of society can prove successful only when the backward communities are brought to the same level of economic prosperity where advanced communities of the State stand. It is to that effect that special provisions for such communities have been laid down in the Constitution. Nowhere in India neither in the Centre nor in any State Legislature have any seats been reserved for the women, but in the State Constitution two seats have been specially kept for women. In this respect we have gone ahead of Centre and other States.

I will not go into details, I would like to emphasize once again that, we earnestly desire that this Constitution should not remain mere paper Constitution. We may have to struggle for implementation of the Constitution, we may have to undergo sacrifices for making it a living reality for unless judiciary understands its duty Legislature asserts its rights and the Executive fulfils its duty, success can never be achieved. I feel that our responsibilities have increased to a great extent. We must leave no stone unturned to create a sense of responsibility in the public also. I hope that the people of this State will work according to our expectations and would try in every possible way to give practical shape to this constitution and make it a

success. In this way this constitution will bring prosperity to the people of this State. With these words I support the motion of Dogra Sahib.

***Mr. Mohammad Ayub Khan:** Sir, after all that auspicious day has come when the work of constitution making has come to its last stage, and the high hopes we had cherished for the last so many years about our future have come true. As is obvious from the preamble of the Constitution we are giving a Fundamental Law to this State. The conception of every Constitution is to give that pattern of society to the people of a country as they like to adopt for future generations to come. It has been laid down in the preamble of this Draft Constitution that:-

“We the people of Jammu and Kashmir State do hereby adopt, enact and give to ourselves this Constitution.”

Forty Lakh people of this place are giving practical shape to their feelings, desires and aspirations by giving this fundamental law to the State. Whatever form of Government, Legislature, Executive or Judiciary there exists in the State in the future, it will be the duty of these organs to accept this Constitution word by word and try to carry out its golden principles. Section 64 provides that every member of the Legislature before taking part in any kind of business in either House of Legislature should solemnly affirm that he will bear true faith and allegiance to this Constitution. In this way we have to see what kind of programme we have proposed for ourselves for future. It is to this effect that we have given its picture in the Preamble of this Constitution. The basic idea of this Constitution as is laid down therein is to secure to ourselves “justice, liberty, equality and fraternity.” This Constitution fully explains these four fundamental principles. We long for a Socialist pattern of society for the State wherein every individual irrespective of any distinction gets equal chances of advancement. We want

to establish a kind of setup wherein poverty, starvation and downtroddenness of which we have for years been victims, are abolished forever. This day reminds us of those martyrs whose sacrifices have given us a chance to give practical shape to those aspirations, emotions and desires for which they have laid down their precious lives. Today, majority of the population through their representatives in framing a Constitution which will become a fundamental law of the State within a few days, we are disgusted at the fate of our brethren who are on the other side of the ceasefire line, since they have been deprived of their freedom. They too have tried to persuade the Pakistani Government to allow them to form a Government of their own choice, but for the last eight or nine years five or six Governments have been thrust upon them. They are helpless even today and we are also helpless to help them in any way, but our sympathies are with them. We long for the day when they become free to join us and the lakhs and crores of people living in India in our march on the road of progress. We hope that the day is not now far when they will join us for their own welfare. We have chosen a socialistic pattern of society for ourselves as the Directive Principles of the Constitution indicate. These Directive Principles are the basis of future administration. It has been said that these Directive Principles have no legal force; but the same is not correct, because these are part and parcel of the Constitution. Any institution or any government which will do anything in contravention of this part of the constitution will do so unconstitutionally. Therefore, it becomes obligatory on every government to keep this charter before itself and if for any reason she does not act according to it, the Legislature can change it. Now our sole aim must be to make this Constitution a living force. To achieve this object we are in need of favourable circumstances. It is with this object in view that we have defined

our relationship with the Union of India in section 3 of our Constitution.; We have also defined the extent of our Legislative and Executive powers of the State. Incorporation of these two sections in our constitution has generated an atmosphere of certainty and security and the uncertain conditions prevailing before August, 1953 have been settled forever. In neither House of Legislature can a Bill seeking to amend these two sections be introduced or amended. Henceforth disruptive elements will not get any chance to spread panic here. It is being rumoured that with the enforcement of this Constitution the seed of separation tendencies will be sown in the minds of the people. But such selfish people cannot mislead the public when section 4 clearly and precisely defines the territory of the State. By such utterances they become blind to such an extent that they even oppose the right of self-determination. They advocate that there should be a Governor in place of the Sadar-i-Riyasat, which in other words means that the people should have no say in the election of the Sadar-i-Riyasat, and should accept such Governors as are thrust upon them. Likewise, they spread such other kind of rumours about the Flag, the language problem, Election Commission and the Public Service Commission. All these objections have duly been replied in the second reading of the Constitution. The representatives of the majority are present here and if some such persons for their personal aggrandizement or leadership speak like this, the time is fast approaching when they shall be exposed in the public. The people of this place be misled any longer. Again it is being rumoured that the Upper House proposed to be setup in the Constitution is useless, but the purpose in creating this House is to satisfy the urge of provincial representation. Nobody can deny the advantages of this House. Nobody can deny the fact that on so many occasions the Upper House proves its usefulness by making available to the Legislative Assembly

its highly valuable opinions and advice. It is in Upper House only that expert opinion on different matters can be had from such learned men as scientist, philosophers, economists and educationists. Besides, the representatives of the Panchayats, the Co-operatives and the Municipalities will get an opportunity to participate in the Legislative of the State and this will enable the Legislature to win confidence of such Organizations. The final powers vest in the Legislature, and the Legislature is competent to dissolve the Upper House also. It is the duty of the Legislature to afford a chance for work to the men of the repute in the Upper House. It is only to give an equal provincial representation to every section of the people in the State that the Upper House has been brought into existence. Section 16 reveals that the Panchayats have been made the backbone of the Government. In this way we can derive help and aid from majority of the people in constructive works of the State. To win the co-operation of the people living in different tehsils it has become essential to establish Tehsil Panchayat Boards in the State. In this way the people from different tehsils will get an opportunity to unite in the case of defending their rights. Every Tehsil unit will in itself be an independent unit and as an independent unit of the Center it will be competent to a great extent to decide such small issues regarding constructive works and litigations, etc. The constituent does not debar the backward sections to associate themselves with the administrative machinery.

Some friends are in favour of provincial autonomy, but in my opinion present circumstances do not allow to establish such an autonomy. The conception of provincial autonomy will lead to disintegration of the State and will create tendencies of separation in the minds of the people, and would encourage the people to think in terms of Jammu-vies, Kashmiries and

Ladakhies. I would like to say that every citizen of the State should consider himself an Indian first and then the resident of Jammu and Kashmir state afterwards.

Sardar Sahib while discussing the golden principles of the constitution said that responsibility devolves on the Legislature and the Executive to give practical shape to those principles. I am of the opinion that any programme, however, high it may be, will never be successful unless the people conscientiously realize their responsibilities in this behalf. The direct co-operation of public is very essential. I would like to illustrate my point by an example; when the K.M.T. Government was in power, they had the golden revolutionary principle of San Yut San inscribed on paper always before them, but when the time of their execution came the influential people joined hands with the landlords and selfish people. This led to the downfall of K.M.T. Government, and a new popular party came into existence and acquired power. Therefore we are required to be vigilant. The more people are politically sound, the stronger shall be the Legislature, and there is every possibility of improvement in the Judiciary if efficient people are elected to the Legislature.

Honestly believe that the existence of National Conference Organization shall be a permanent need of this State. This Organization has led historical movements in the years 1931, 1947 and 1953 and it is entirely due to the efforts of this organization that a new era has set in. I would challenge that no other party in the State can shoulder such responsibilities. After going through the constitution, we have come to the conclusion that an endeavour has been made to incorporate the golden programme of “New Kashmir” in it. Everybody in the State will now enjoy equal rights irrespective of his domicile and nationality. Today every backward class of

the State enjoys a peaceful living whether coming from Gulabgarh, Basohli, Poonch, Bhaderwah, Ramnagar, Lolab or Ladakh. National Conference Organization has already chalked out a programme of economic and social development for the people of the State. Whether they may be backward communities or people coming from backward areas efforts are being made at present to get rid of illiteracy, poverty, unemployment and disease.

It is only the National Conference Organization which has recognized the rights of all people, and has thereby won their confidence. As I have just now stated that this Organization has given many sacrifices for having a Constitution for the State, and will have to spare nothing in future to make it a living force. I believe that we have to work hard now. Our work does not come to an end with the finalization of this Constitution. We have to work hard for proper implementation of the Constitution. We have many hurdles before us, we have enemies within and outside the State, our administration is defective in certain respects but we will remove all these hurdles and handicaps. We have made it a principle that:-

“Naqsh Saray Hamein Na Tamam Khoon-i-Jigar Ke Bagair”

Therefore, we have to put in hard labour for the realization of our dreams. We have never been afraid of the difficulties in the past nor shall we ever be in the future. We shall fight tooth and nail against every kind of difficulty which we may have to encounter in the future, and we hope that we shall succeed in the end. With these words I support the motion of adoption of the constitution of the Drafting Committee, and congratulate the Chairman of the Drafting Committee, his colleagues and the Constitutional Advisor. They have after having put in hard labour prepared this Draft Constitution which represents the aspirations and desires of the people of this State I consider it my duty to thank the Constituent Assembly staff

especially the Secretary, Reporters and other officials who have put in hard work for the last five years, and at the end I would once again offer my thanks to the Chairman for the proper and appropriate guidance that he was pleased to give to the Committee during all these years.

Sir, within a few days we shall complete the first stage of that historical journey, but the second stage is very hard and difficult. That is the stage where we have to give practical shape to this Constitution. I pray that every individual of this State may lead a prosperous life. May God Almighty enable us to implement this Constitution in the State. 'Ameen'.

***Shri Bhagat Ram Sharma:** Sir, in fact I did not intend to speak today, but as many inspiring speeches have been delivered in the House cannot stop myself from expressing my feeling at this moment. The presence of Sardar Harbans Singh Azad in the House would have given me a great satisfaction, but it is regretted that he is not present in the House at this time.

Sir, Sardar Sahib has tendered his valuable advice to the different organs of the Government in his speech. It is these organs who can make a success or otherwise of this Constitution. He stated that the judiciary should do justice to the public, and the Executive should make the administration immune from corruption. Likewise, he stated that it would be proper for the members of the Public Service Commission to consider the first claims of every community of the State, and recruit the best talented men in the services. Sir, I believe that it is due to the sacrifices and struggles that the people have undergone for the last so many years that this constitution has become a reality. (Cheers).

We are not required to undergo more sacrifices for the implementation of this constitution I would like to assure Sardar Sahib that after going through the sections of this constitution it becomes clear that the institutions

he has referred to in his speech have now been placed at the mercy of the public, and we can make these institutions work in accordance with the spirit of this constitution. In future, only those people have a chance of being returned to the Legislature who are true representatives of the people and enjoy their confidence. These people will be elected on the basis of adult suffrage, and will represent the true aspirations and feelings of their electors. The Prime Minister and other Cabinet ministers will be elected according to their wishes and will enjoy their confidence. Unlike the rest of States in India the supreme Executive Head of this State will be elected by the representatives of the people of the State. He will be elected according to the wishes of the public. This is a very big step. As far as the appointment of the Prime minister is concerned, section 36 of the constitution creates some misunderstanding in this behalf. It has been provided in Section 36 of the constitution that:

“The Prime Minister shall be appointed by the Sadar-i-Riyasat and other Ministers shall be appointed by the Sadar-i-Riyasat on the advice of the Prime Minister.”

If Section 37 is read with the above, the matter becomes clear.

“that the Council and the Prime Minister shall be collectively responsible to the Legislative Assembly.”

Though formally the Sadar-i-Riyasat has to appoint the Prime Minister, but only that person can be the Prime Minister who enjoys the confidence of the Legislature. Other Minister also should not misunderstand their position that the Sadar-i-Riyasat has to appoint them on the advice of the Prime Minister and will continue in office for ever. They should know that even a prime minister, if he does not act according to the constitution, cannot hold his offices if they are found to have acted against the

constitution. I believe that the advice tendered by Sadar Sahib is no longer needed. We have vested all powers in the public. They need not flatter anybody now. We have only to watch the work of the State organs and have to see whether they are working according to the provision of the constitution. If any body contravenes any of the provisions of the constitution and the same is brought to our notice he will be turned out. This is our right and the right of the people. We have not to flatter or seek the assistance of any body in this behalf.

Sadar Sahib has stated that there is direct need of improvement in the Administration, and corruption needs to be abolished. I assure Sadar Sahib that within a few months we shall approach the public and enquire from them as to who are the persons in whom they have confidence and to whom they want to entrust the work of carrying out the provisions of the constitution which is going to be adopted very soon. The public alone has the right to decide this issue and the constitution gives an assurance that they can elect their representatives according to their free choice. They have the right to see and turn out any member of the State organ not excluding Sadar-i-Riyasat who does not work according to the spirit of the constitution.

Sir, Sadar Sahib has also made a reference to the judiciary and said that the judiciary should make people realize that the constitution is their only character of liberty. I assure Sadar Sahib that the Judges of the High Court will no longer be deemed to be the persons sent from above, they are now required to satisfy the people by being impartial and by doing justice. If not directly but no doubt indirectly they are at the mercy of the public. It has been provided in the constitution that the legislature can pass a resolution and can remove any Judge of the High Court who thinks that he

can do whatever he likes or who contravenes any of the provisions of the constitution.

Kotwal Chuni Lal: There is no such thing in the Constitution.

***Mr. Bhagat Ram Sharma:** I am sorry that a member like Kotwal Sahib should speak like this. I would like to draw his attention to section 99 of the constitution wherein it has been laid down that:-

- 1) A Judge of the High Court may, by writing under his hand addressed to the Sadar-i-Riyasat, resign his office.
- 2) A judge of the High Court shall not be removed from his office except by an order of the Sadar-i-Riyasat passed after an address by each House of the Legislature supported by a majority of the total membership of that House and by a majority not less than two thirds of the members of that House present and voting has been presented to the Sadar-i-Riyasat in the same session for such removal on the ground of proved misbehavior or incapacity.
- 3) The Legislature may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehavior or incapacity of a Judge under sub-section (2).

This section clearly indicates that while on the one hand the position of a Judge of the High Court has been protected on the other the Legislature has a right to pass a resolution and remove a judge of the High Court on the ground of proved misbehavior or violation of the constitution. Let us make it clear to them that they have to work according to this constitution, and if at any time they are found reluctant they cannot hold their offices even for a minute.

This section clearly indicates that while on the one hand the position of a Judge of the High Court has been protected on the other the legislature

has a right to pass a resolution and remove a Judge of the High Court on the ground of proved misbehavior or violation of the constitution. Let us make it clear to them that they have to work according to this constitution, and if at any time they are found reluctant they cannot hold their offices even for a minute.

I would once again reiterate that every kind of misunderstanding about this constitution should be removed since this constitution demands careful examination as it represents the long cherished hopes of every individual of this State. This constitution does not place the public at the mercy of anybody; instead it provides that every agency associated with the public is at the mercy of the public itself. Only those institutions can survive now who enjoy the confidence of the public, and other institutions who approach the public with old and obsolete ideas can never survive any longer.

Besides, I would like to say that it is after working hard for the last five years that we have succeeded today and have been enabled to give practical shape to our aspirations and desires. Arrival at this stage was made possible by the timely advice which you were pleased to give for the last five years and the assistance and help which we expected in this behalf was rendered to us by the Secretaries of the Constituent Assembly and their staff. This act cannot be concealed from anybody that the Reporters and other members of the Constituent Assembly staff had to work for days and nights and had put in hard labour for the completion of this work. Therefore, I believe that they should be given one months additional pay. They have done their work in right earnest. I believe that mere slip sympathies and appreciation would do them no good. I would like to request the Leader of the House to sanction at least one months pay by way of remuneration in

favour of the employees of Constituent Assembly Secretariat. With these words I support the motion.

Kotwal Chuni Lal: Sir, the motion before the House is to pass the Draft Constitution. I deem it proper to discuss some of the fundamental principles of the Draft Constitution. The fundamental question which has been solved by this Constitution is to ratify the decision of the Constituent Assembly with regard to the accession of the State to India. The State has been made an integral part of India. We have made this thing clear in the Constitution that the State shall comprise all the territories which on the fifteenth day of August, 1947, were under the sovereignty or suzerainty of the Ruler of the State. This section makes it clear that Gilgit and areas of Chatral are legally and constitutionally parts of this State. We have provided the principal of adult suffrage in the constitution, and the bases of Legislature have been laid on this principle. The Legislature shall be answerable to the public. The Legislature shall consist of two Houses i.e.; the Legislative Assembly and the Legislative Council, and the representatives of both these Houses shall be answerable to the public. The Council of Ministers shall be answerable to the Legislature. We have given the same status to other judiciary which it enjoys in other independent countries of the world. We have made the judiciary independent, and have made justice available throughout the State. We have secured the rights of the Government employees in this constitution. In future no government employee can be placed under suspension or be dismissed unless he is given a chance to explain his position. Sir, the Public Service Commission will also be established, and Sardar Sahib has fully explained the functions of this institution in the House I would not like to speak anything more about it.

Sir, the basis of this constitution have been laid on the two fundamental principles i.e., equality of opportunity and equality of status and also on social justice and on economic and political freedom. We have declared that everybody irrespective of his nationality shall be entitled to all opportunities of making progress. Had we not provided the clause of social justice in this constitution, we would have never been competent to say that this is a complete constitution. We have provided for the uplift and betterment of the backward people and backward areas in this constitution. In this way this is a complete constitution the credit of which must go to the State's biggest Organization i.e, National conference. I am reminded of those days in the year, 1953, when uncertainty and panic was created in the State. The credit of removing that uncertainty and goes to the present leadership. Today we are incorporating those aspirations in the constitution which were described by Gandhi Ji as a ray of hope. That ray of hope has shown us our path and we are now determined to abolish communalism, narrow mindedness and religious prejudices and hatred from our country. We will never allow that communal atmosphere to prevail in this country. I would like to congratulate the Hon'ble Members for having fought against communalism with full determination. Sir, I would like to congratulate the people of Jammu and Kashmir also who have never hesitated to undergo any kind of sacrifice for these principles, and it is the outcome of their sacrifices that we are giving this constitution to the public. I would also like to congratulate the present leadership which has brought about the accession of th is State with the crores of people living in India. Now we are an integral part of India for all times to come, and his accession would lead to the prosperity and betterment of this country. I would once again like to congratulate the Hon'ble members for having saved this country at a time

when it was overwhelmed by darkness and was involved intrigues, to which eminent personalities fell easy victims. The credit must go to those friends of mine who have discharged their duties with iron determination. I would also like to offer my thanks to the staff of the Constituent Assembly, Reporters and other officials as also to the inferior staff who have discharged their duties with full sense of responsibility. Particularly I would like to congratulate the members of the Drafting Committee and its Chairman I hope that all those gentlemen will continue to discharge their duties in future to the best of their ability. I fervently believe that we shall never hesitate to implement all those schemes the purpose whereof is to bring about the betterment and prosperity of this country. If we inculcate a sense of responsibility in ourselves our country is sure to progress by leaps and bounds and prove itself a glaring jewel on the forehead of India. With these words I support the motion.

***Mr. President:** There is no further business for today. We shall meet again on Saturday, the 17th November, 1956 at 11.30 A.M.

Note: The House then adjourned till Saturday, the 17th November, 1956 at 11.30 A.M.

Saturday, the 17th November, 1956/3rd Maghar, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber, Rajgarh Palace, Srinagar, at Eleven O'clock.

Mr. President (Hon'ble G. M. Sadiq) in the Chair.

***Bhagat Chaju Ram:** Sir, I stand to place on record my views on the constitution while it is on the third reading stage.

The first thing we have to consider is the manifesto which was placed before the people by our Organization at the time of the Assembly election and also we have to keep in view the basis on which the Assembly was set up. The other thing we have to keep in mind is as to what type of set up would be needed to implement the provisions of the constitution we are adopting here. And finally I would like to throw some light on the so called Harijan Mandal's activities which in fact is an agency of the Praja Parishad. Incidentally I will also try to show the motives, behind the much publicized stunt of hunger strike by the Harijan Mandal.

Sir, this Assembly had, besides the framing of the constitution various other functions to perform viz. to finalize the issue of State's accession to India, to decide the land compensation issue. Sir, all of us, I hope are aware about the steps we had taken to fulfill the promises we had held out to the people. As regards the draft constitution, in view of the excellent speeches delivered by some my learned friends. I need not say anything more.

Sir, my submission is that the cool headed deliberations which marked the decision of the Assembly over the question of accession are known to the whole world. Ad present nation after nation is coming to realize that Panch Sheil is the only way by which world peace can be maintained and thus a large number of nations are subscribing to Panch Sheil.

When we decide that a Zamindar will be allowed to hold an area of 182 kanals only and that the tenant will pay one forth of the produce instead of $\frac{1}{2}$ as was the practice previously, many people thought that it was only a wishful thinking and will not work smoothly. But we can look back with pride that we did what we promised to do. I admit that a section of people

who felt that the agrarian reforms were against their interests showed some uneasiness but all went well and the reforms proved to be a success. Today we are giving to our people this constitution and we have to examine thoroughly those organs which are going to implement the constitution. I think that every citizen of the State is jubilant about the constitution we have framed. I remember that during the autocracy we were told that we have inherited poverty and for our poverty, hunger or untouchability none but fate was to be blamed. For centuries we were kept in dark by way of such myths. Today when I see the great changes brought by the people and the way in which these were done. I cannot help saying that the power is within the people and hence sovereignty is derived from the people. The constitution has made equitable provisions for all sections of the population and promise justice to all. In particular women have been given equal rights and privileges with men. Only yesterday in the course of a talk I came to know an important cause of China's rapid progress. A Chinese friend besides telling us many a thing about china told us that the Chinese Republic had given equal rights to women which is the reason why China has made such a great progress. In the past backward illaqs of the State were denied all the opportunities for progress with the sole aim of keeping them tardy but now under the National Conference's programme these illaqs have been given priority. While framing development plan due consideration has been given to the development of cottage industries and handicrafts, agriculture and other industries of the State. The constitution reflects all these socio-economic and political programmes.

Sir, now the most important question before us is the setting up of that organization which will carry out the aims of this constitution. So far we have carried on our task successfully and even now we have to do much. We

still maintain that land must belong to the tiller but in face of a large number of landless peasants it becomes a sad irony. Therefore to assure that land in fact belongs to the tiller and not to the landlords we should organize our resources and gear up the machinery in this behalf. In this way alone we will succeed in keeping this situation under control. I cannot even imagine for a moment that any section of the people will be subjected to injustice so long as National Conference is in power. Of all the organizations National Conference alone is competent to implement the constitution in the right spirit and on sound lines run the government formed under the provisions of this constitution. Praja Parishad had unsuccessfully tried to win over the leadership and have created new party known as Harijan Mandal. Few days ago the afore-mentioned party created a stunt of hunger strike. This was done on the plea that rights of the Harijans need protection. This is a most unfortunate development at this critical time when we are placing before the nation an ambitious programme and are providing for the uplift of the backward classes. The need of the time is that we should try to implement the programme with all the speed that may be possible. I am sure that very soon our friends on hunger strike as a protest against the constitution, will realize their mistake and give up their present tactics. Our duty is to adopt and implement this constitution. Yet, I cannot help feeling sad for those friends who have gone astray. The poster published by that party states that no provision like section 335 of constitution of India has been embodied in our constitution. Further it is complained that in section 133 of our constitution no mention of Harijan community has definitely been mentioned. In this poster Hindi-Urdu controversy has once again been raised I am sorry to point out that these ignorant persons who claim to be the defenders of the rights make these institutions work in accordance with the

spirit of this constitution. In future, only those people have a chance of being returned to the Legislature who are true representatives of the people and enjoy their confidence. These people will be elected on the basis of adult suffrage, and will represent the true aspirations and feelings of their electors. The Prime Minister and other Cabinet Ministers will be elected according to their wishes and will enjoy their confidence. Unlike the rest of States in India the Supreme Executive Head of this State will be elected by the representatives of the people of this State. He will be elected according to the wishes of the public. This is a very big step. As far as the appointment of the Prime Minister is concerned, section 36 of the constitution creates some misunderstanding in this behalf. It has been provided in Section 36 of the constitution that;

“The Prime Minister shall be appointed by the Sadar-i-Riyasat and other Ministers shall be appointed by the Sadar-i-Riyasat on the advice of the Prime Minister.”

If section 37 is read with the above, the matter becomes clear.

“that the Council and the Prime Minister shall be collectively responsible to the Legislative Assembly.”

Though formally the Sadar-i-Riyasat has to appoint the Prime Minister, but only that person can be the Prime Minister who enjoys first the time and now once again it is trying to raise its head. Through they declare that the Mandal is to protect the rights of the Harijans but in fact the way adopted by them is more injurious than beneficial to the Harijans. I assure my friends that National Conference alone can lead the people on the road to progress and the greatest good of the Harijans lies in strengthening National Conference. I do not think that, that day is far when National Conference

will bring up the backward classes on an equal level with the other communities of the State.

Sir, before concluding my speech I feel bound to express my appreciation for the work done by the Constituent Assembly staff. There is no denying the fact that to make our work a success the staff has worked day and night unceasingly and efficiently. Therefore, I record my appreciation of their work. With these words I conclude my speech.

Mr. Ghulam Nabi Lolabi:- Sir, this day will go down in the history of our State as a red letter day. Because it is today that the aspirations of the people are being translated into action by the Constituent Assembly by finalizing the constitution. This constitution is not only going to end the centuries old slavery but is also for the first time making the people as a whole sovereign in the state. This day has been ushered in by a long continuous struggle by the people. It will not be far from truth if we say that the sacrifices made in 1931 and subsequent struggles have today borne fruit. And the fruit which we have to get today is liberty, equality and fraternity and also freedom of speech, of press and of association and finally the sovereignty of the people. For all this the organization under whose inspiring leadership these things were achieved deserves to be congratulated. It is through this organization and leadership that we acquired the right of self-determination for ourselves. We cannot help but congratulate the organization, which led the struggle to a successful conclusion. The organization took a strong stand against the autocracy and awakened the people to a realization that sovereignty is their inherent right and helped them to wrest their rights. And it is only today that we have become completely free from all shackles. We are free to mould our destiny. I have no doubt that the organization and the leadership that has brought the nation to this stage will also lead the people to appreciate the

advantages of the new constitution. We can say without any fear of contradiction that our constitution compares fairly with the constitutions of most advanced democracies in the world and is framed with a view to giving concrete shape to the wishes and aspirations of the people of this country. This assures us that we can go forward without any real obstacle. However, I am hopeful that this new constitution will clear the doubts existing in the minds of those friends who are labouring under some misapprehension at present. As the constitution is based on humanitarian considerations and has recognized the dignity of man therefore I have no doubt that it will be successful in exterminating the germs of communalism.

The controversy of language has today lost all its venom. I do not think that people are interested in raising a controversy over Hindi, Gurmukhi, Arabic or Urdu. Nations are interested in uplifting the humanity and its dignity. So in the present circumstances I do not think these petty matters will so much grip the minds of the people that the old era of mutual hatred and brutality, which was the creation of British imperialism in India, will find a favourable breeding ground in our State. Our State has no place for persons of such inclination and ideas. Sir, I feel that nothing can be more true than this declaration that our organization succeeded to fight out communalism as well as autocracy against so many hazards simply because it had the confidence of the people. So long as its leadership enjoys that confidence no power on earth can destroy it. The world opinion has come to appreciation the wise choice of our people.

There is no gain saying of the fact that the Hon'ble members of this House have conducted themselves in an orderly and a farsighted manner in critical circumstances. The House deserves to be congratulated for the patience, determination and thoughtfulness, which marked its deliberations. The

Houses on the one hand had to contend with some persons who being its members were still trying to fan into blaze the smoldering fire of communalism and on the other it has to be alive to the ever-present danger of imperialistic intrigues designed against our State. Therefore, the House deserves heartfelt thanks for its outstanding work of framing a constitution amidst odds. The leadership of this House also deserves thanks for its unflinching and continuous adherence to the wishes and ideals of the people.

Sir, I will be doing injustice if I do not thank the staff of the Assembly who have contributed no mean share to the triumph of this House by putting in a good deal of labour and time in making the work of the Assembly a success. Finally, I would be untrue to myself if I do not thank you sir, for the patience and the thorough manner in which you have conducted the deliberations of this House and I am sure that it will stand as a guide to the future presiding officers of the Assembly. With these words I support the motion in question and pray God our hopes, which are pinned on the constitution, be fulfilled to the last letter.

Mr. Abdul Gani Trali: Mr. President, Sir, the draft constitution is in the third reading stage today and the House is going to give it a final shape. I do not intend to take any more time of the house as many a members have spoken enough on the constitution and have expressed their viewpoints thereon. Without dilating on this point I would like to state the aspirations under which the constitution should also be implemented. Only by acting according to the provisions of the constitution we can develop our country and put the nation on the road to progress. A slight divergence from the letter and spirit of the constitution will plunge the nation into despondency. Our future progress wholly depends on the way we are going to apply the constitution.

There is no denying of the fact that the work of framing the constitution was exacting one. The House has to give its full thought to this work. Mention must also be made of the part played by the Assembly Secretariat. They deserve to be heartily congratulated for cooperating with us. I would request the leader of the House that they should be given one month's salary by way of honorarium as token of appreciation and encouragement. With these words, I support the motion in question.

Mr. Ram Lal Khajuria:- Sir, today I am permitted to say so, will go down in history as a memorable day. Today after five year's continuous efforts and deliberations we have succeeded in finally adopting the constitution for our State. Our constitution is both democratic and a socialistic one. But for your able stewardship, high standard and unbiased judgment our task would not have been so easy. So I take the first opportunity to offer congratulations to you, which you so richly deserve. Further, I would congratulate the leader of the House on my own behalf and on behalf of the people of the State, under whose able leadership we have been able to accomplish the work of constitution making. In 1953, when the imperialist in Terigue nearly succeeded in infiltrating the very set up of our State by means of a few perverted communalist it was Bakshi Sahib and his colleagues who saved the state from the brink of chaos and confusion and piloted hurricane tossed ship of the State safely to the harbour. This is a tribute to the courage and high standard of his leadership. I am sure it is but for his leadership that the Constituent Assembly could frame the constitution in calm and peaceful atmosphere. Had not Bakshi Sahib taken courage at that critical hour, I am sure that the situation would have been quite different from what it is today. It would not be far from truth to say that most probably the State as such would have been nowhere, which also would have meant no Assembly and

finally no constitution. I would also like to congratulate the members of this House who at a critical time did not give themselves up to sentiments but remained firm and determined as to their task thereby making the drafting of the constitution possible.

Mr. Bhagat Ram Sharma:- What about your mokeys?

Mr. Ram Lal Khajuria: They are still alive; this constitution reflects the hopes and aspirations of the people of the State. The people threw their lot with the National Conference after 1931 and solemnly decided to set up a republican form of State here. Today that aspiration has come to be true. I am happy that today we can look back with satisfaction and pride for having fulfilled all those promises we made in 1951 in this House.

Sir, under this constitution centuries old autocratic rule has been put an end to and has been replaced by a democratic set up. The constitution provides for an independent Legislature with two Chambers. The people are free to elect their representatives to both the Houses. The Government of the State now onwards will be formed by those representatives of the people who will command the confidence of the House. That legislature will have the right to elect the Sadar-i-Riyasat of the State. The constitution confers certain special rights and privileges on the backward communities like Harijans. In view of the backwardness of this community even Assembly seats for them have been reserved. Women also have got a special reservation of seats in the Assembly in case it is felt that they are unrepresented or under represented. Legislative has been separated from the Executive for the first time in the State. The audit department to the State has been put under the Audit General of India. An independent agency has been set up by the constitution for the recruitment to the State's Civil Services. The establishment of Public Service Commission will ensure entry

in the State Services to all efficient persons with proper qualifications irrespective of their social origin or status. The Constitution has granted right of wage to every workman and has thus made exploitation impracticable.

The principal achievement is the ratification of State's accession to India. Now we have completed the State's accession to India in all respects, viz. in fact and law. The accession to India irrevocable and final. No power on earth can make us do otherwise or discontinue this Union (Cheers)

Sir, I congratulate the Chairman and members of the Drafting Committee who finalized the Drafting after a great Labour I would like to place on record my thanks to the Assembly staff who cooperated with us in all respects and by working day and night helped us to a great extent to accomplish our task in regard to the framing of the constitution. I would request the leader of the House to compensate the staff for his hard and diligent work they have so willingly been doing. I further request that one month's pay in the form of honorarium be given to the staff of the Assembly. With these words I support the adoption of his constitution.

Mr. President: Mrs. Mani.

Mr.G. L. Dogra: Sir, time limit for the speeches may please be prescribed so that the speakers may complete their speeches within thirty minutes.

Mr. President: As it is the last day the Hon'ble members should please try to finish their speeches within a short time. This is perhaps the final occasion for members to make a speech, so all should be careful about the time limit.

Mrs Isher Devi Mani: Mr. President, Sir, many speech have been delivered on the floor of the House today. I will confine my remarks to a few points and will not take much time of the House.

The first point I want to emphasize is that we all must be aware that Kashmir is an integral part of India. We have acceded to India of our own free will and I see no reason why we should not be happy and jubilant over this. India is a firm believer in panch Sheil to which we also subscribe (Cheers).

The whole world is aware that the National Conference is the largest party in the State and that this party solemnly resolved to set up a free and independent Assembly, which will decide the future of the people of this State. At the time of election to this Assembly all the National Conference candidates were returned. The Assembly took historic decisions and today is finally adopting the constitution of the State. This constitution will ultimately prove an incentive for others. Our constitution has given equal rights and privileges to all as also to the women folk of the State. The Praja Parishad would always question our inclusion; mine and Mrs. Ram Devi's in the House but it will stultify them to know that the constitution provides for reservation of seats for women.

Finally I would congratulate you, Mr. President, the members of the House and the people of the State at large for this achievement. I will be doing injustice if I do not pay homage to the martyrs but for whose sacrifices we would not have seen the day. My reference includes those women also among the martyrs but for whose sacrifices we would not have seen the day. My reference includes those women also among the martyrs who jumped into the wells. I pay homage to the personnel of the Indian Army who sacrificed their lives to safeguard our life and property. I congratulate the leader of the House and all those who lived upto their promises deserve to be congratulated warmly.

Mr. Krishen Dev Sethi : Sir, today the Draft constitution is on the third reading stage. Members have thoroughly expressed themselves while general and clause-by-clause discussion took place. Therefore, I do not intend to go into details of the constitution at present. I would rather confine myself to the spirit of the constitution. I would try to throw some light on the spirit contained in the various provisions of the constitution. Our constitution can be amended from time to time to meet the requirements of our people.

Our constitution is based on the principle of secularism and parliamentary democracy of socialistic pattern, which in other words means nationalization of means of production and creation of a classless society. This I think is the salient feature of the constitution. In future the constitution can be amended but its spirit will be unchangeable; that is secular democracy. The very foundation of our accession to India is based on this very principle. History bears witness that our people have been struggling to achieve this goal since long. Prior to 1931 the struggle was more or less of individual character than of a general nature but all the time it was a struggle for this very object. It matters little whether the people struggled against the Pathans, the Mughals or against the Dogras. Since the year 1931 this struggle took a concrete and nationalistic turn since then we had to make greater sacrifices to achieve our goal. I congratulate the members of the House who are giving this constitution to the people after a long and sustained struggle; it is a fruit of the sacrifices of the martyrs, which we have gained in the shape of secular democracy. History bears witness that only that constitution endures which has the support of the public. It is not an exaggeration to say that the people on the other side of the cease-fire line are as wholeheartedly for this constitution as are this side of the line. I admit that a few voices have been raised against this constitution. Those who

intend to set up a facist regime in the state raise these voices. We should not rest content with the sacrifices of the martyrs but should be presented every time to sacrifice our all to defence of our constitution in the manner the heroes like, Shaheed Shirwani, Brig. Usman and Rajinder Singh laid down their lives to defend our States. We should not permit the enemies of our state to wrest the initiative from us. Today I happened to hear the Pakistani controlled so called Azad Kashmir Radia, Sardar Abdul Qayum Khan the President of the so called Azad Kashmir was on the Air. I heard him say that it was their first duty to liberate the people of Kashmir living on this side of the cease –fire line. We need not get unnecessarily alarmed over these empty threats and black –mailing. But we ought to be alive to the danger of an attack by them because the imperialists are hatching intrigues to use Azad Kashmir as springboard to launch an attack on this side of the cease-fire line. Such an attack will be backed by Pakistan and other imperialistic powers. Thus I repeat, we ought to be vigilant about it. In certain respects I fail to distinguish Sardar Abdul Qayum Khan from the President of Praja Parishad Mr. Dogra. Both at destroying the democratic basis of our State and constitution. This statement is amply borne out by the contemporary events in the world. Britain and France in pursuit of their imperialist designs attacked Egypt and got an international force stationed there I am afraid that Pakistan may not also do the same thing to put an end to our constitution. But I am sure we will demonstrate to the people of the world that we the people of Kashmir are ready for all such eventualities and that we the people of Kashmir are ready for all such eventualities and that we have not lost sight of the great freedom movement we have been carrying on for the last three decades. We will face all such interventions unitedly and retaliate with force. Our most pressing need is unity and our country requires us to be

ready to offer sacrifices when need arises. By hatching intrigues us (Kashmir) the enemy is desiring to strike at the foreign policy of Indian and Mr. Nehru who has earned the praise of the whole world by following an independent foreign policy. I will remind the people as well as the leadership of the State to be ready with their answer to all such international intrigues of the imperialists India's foreign policy will be put to a test in Kashmir. It will not only be a test of Kashmiries but also of Pundit Ji's foreign policy. I am sure the young people of the state who had sacrificed there all in the past will be called upon again to give more sacrifices to resist the Anglo-American intervention in their country. In the name of glorious past of India I appeal to the people and the leadership of this State to remain united such a mighty and subtle enemy. The tradition of sacrifice is so great in our people and leadership that I am sure that they will not shirk to give more sacrifices, if need arises. The enemy is aiming at intervention with the sole aim of creating disruption and destroying our constitution. They intend to frustrate our aim of establishing a secular parliamentary democracy. In Defence of our State and culture and in the face of such a great danger we should sink our difference and unitedly face enemy. With these words I conclude my speech.

Mr. Abdul Khaliq Butt : Sir, the promises which the National Conference had held out the people of the State are being fulfilled today. Besides dealing with ordinary work so important decisions have also been taken. The autocratic and hereditary ruler ship was put to an end, land was given to the tillers without compensation and finally the accession to India has been ratified by this House. Thus we have made it clear to the whole world that we have done which we had promised to do. Today we are in the course of finally adopting the constitution; I hope with the grace of God we will

finally adopt and give to ourselves this constitution today I congratulate the chairman and members of the Drafting Committee who give us this Draft after a considerable deliberations and thought. I would also like to place on record my appreciation and thanks to the staff the Assembly Secretariat who worked very hard and unceasingly even late during nights to complete the work. They richly deserve to be congratulated.

Sir, prior to August 1953 the state of affairs in the State was highly uncertain. I heartily congratulate Bakshi Sahib and his friends who saved the situation. It is entirely due to his leadership that we have been able to adopt this constitution. This achievement in itself is a mighty tribute to his leadership.

Sir, my learned Mr.Sethi in the course of his scholarly speech has made a reference to the danger lying in the activities of our enemies to set this constitution at naught. And he was right to remind us that implementation of constitution is far more important its adoption. We should not permit it to be a dead letter. On behalf of the peasants and farmers of my Constitution, I assure the House that they are prepared to shed the last drop of their blood in Defence of this constitution.

I further assure the House that we will not give occasion to any power to interfere with our constitution. I am happy that this constitution has such a good influence that our long fallen out friend Mr. Goni has come back to us once again. This change in Mr. Goni is due entirely to the fact that he has been attracted by the provisions of this constitution.

Mr. Mohammad Anwar Shah Masoodi: Sir, as the Draft in the House is on the stage of the Third Reading so I intend to express my views about the constitution. Sufficient light has been thrown on various aspects of the Draft so there is very little for me to say hence I will restrict myself to a few

general remarks about the constitution and will not take much time of the House I would try to bring out the salient features of this constitution. I honestly believe that a constitution is much more powerful than the most destructive weapons like Atom Bombs. It is possible that the imperialist power in pursuance of their nefarious aims may launch an attack on us and our constitution but I assure the House that their most destructive weapons will ultimately prove ineffective in the presence of our constitution. A Nation which faces destruction in defence of their constitution cannot morally be said to have been vanquished by a superior physical force. It is the constitution of a nation which gives its members supreme power to face the enemy bravely. During the peace time the constitution provides an inspiration for moral and cultural achievements and during war or period of strife and danger it inspires them to face death in defence of the values which flow therefrom. A Constitution is soul of a nation which sustains it during dangers of war and inspires it in peace time to achieve higher moral values to build up a lasting culture.

The fact which gives me utmost joy and satisfaction is that today we are finally discharging that office with which the nation invested us. While assuming this office the National Conference, the single largest party of the State promised the nation to carry out their behest honestly and today that promise has been fulfilled to the hit.

It is absolutely a different question whether there is or is not a limit to the responsibilities of a party. So far as the question of drafting the constitution was concerned, it is over now. This constitution is a guarantee of the rights and privileges of the nation. By giving us this constitution, National Conference is redeeming its pledge. The very fact that they have

succeeded in giving the country this constitution lays down still more responsibilities at the shoulders of the party. What are those responsibilities? Before taking what these are, I would like to restate a historic anecdote. There is a prophesy in the Pentateuch of the time of Moses which states that the “Last-Comer” will appear on the top of Faran Arbia in the company of ten thousand to complete the revealed religion. The “Last-Comer” signified that Hazrat Mohammad (peace be upon him) will come into the world and on his advent he will be accompanied by then thousand men and he will complete the Muslim Law (Constitution). A similar statement is contained in the last revealed verse of the Holy Quran. For it the Sauba felt intensely jubilant but they were reminded that this joy will be attended to by some change. So also is the case with use we have performed our responsibility of drafting the constitution and now are responsible to see its implementation. The law is enacted to end the uncertainly prevailing in the State and to encourage a good social order. Hon’ble Sardar Sahib has rightly remarked that we should adopt such ways and means as would ensure implementation of the constitution lest it becomes a dead letter. Hence it is the responsibility of the Pat as well as of ours to provide for the future responsibilities in advance. Now we should concentrate our efforts towards the problems likely to arise in the future. We have to raise our character if we are serious to introduce a Socialistic Pattern of society visualized in the constitution. We have got to keep in mind that many enemies of our democracy are lying in wait to undo our constitution. We can beat them down on moral plane if we raise our moral and culture standard. I once again repeat that to successfully implement this constitution we have to arise our moral standard still higher.

My learned friend Mr. Sethi has made a mention about Sardar Abdul Quyum’s black-mailing based on threats of war against us. I hasten to assure

all that we have our answer ready for the likes of Sardar Quyum. We will display to the world that our constitution have imbibed in us a spirit of truth and love and that we are determined to prefer death to slavery. My submission is that no constitution has any chance of success unless the people adopting it are honest and united I do not belittle the danger of attacks from the enemy quarters but I would request all that we should not take these threats too seriously. If we will get ourselves absorbed in what Sardar Quyum or Sardar Ibrahim says we will achieve nothing because that will serve no good purpose except wasting our time. So, the most important step we have got to take after the adoption of the constitution is to build our own character on a higher moral label to make our constitution a success.

While concluding my speech I would like to avail the present opportunity to place on record my homage to the sacrificing spirit of the martyrs for whose sacrifices we have been able to see this day and frame a constitution for ourselves. Mahatmaji is one of those martyrs who deserves to be thanked for this Constitution. Mahatmaji laid down his life to maintain the secular-democracy of India (cheers). I have no doubt that the souls of all these martyrs and of Bapooji would be sharing our joy in Heaven. I also offer my thanks to my friends who did so much in drafting this constitution. All those friends who gave us good advice and their valuable time while the constitution was in the making also deserve to be thanked warmly.

Finally I congratulate this House and the Nation at large for having adopted this constitution which is to be a guarantee of their rights in the future I pray God that my country and Nation may prosper by leaps and bounds under this constitution we are giving to ourselves.

Mr. Girdhari Lal Dogra: Mr. President, Sir, I congratulate the members of this House and the nation at large for finally adopting the Draft Constitution today. Many Hon'ble members have spoken in a scholarly on the various aspects and salient features of the Constitution. Today this House is discharging that duty for which the nation returned its representatives. Today in exercise of the sovereign power of the nation we are giving to ourselves this Constitution. We are fulfilling the trust which was reposed in us by the people.

There is no doubt that certain sections of the people have reacted in the opposite. The enemies of our State have been completely baffled by our success. They are trying to put impediments in the work we have so successfully completed. Some of them are on that side of the cease-fire line. A section of our enemies is planning to perpetuate their vested interests by getting international guarantees. This constitution is a blow to that international intrigue which was all along being hatched by the imperialists. This element has been issuing statements from time to time to which many a reference have been made in this House and Hon'ble members have also suggested what our reply to these statements ought to be. There is an element which all along tried to show its inclination to us but when the time of adopting this constitution came they took a stand which made us aghast. The Asian Socialist Conference was held which presumably was a democratic convention but which later on turned out to be something different in reality. When the Kashmir-Question was raised in that Conference a resolution was moved which placed the aggressor and the aggrieved on the same level. The Conference was attended by those gentlemen who before that posed as our friends. But this resolution exposed theme completely and rudely made us realize what their intentions were.

Though they did not give vent to their sentiments still they promoted others to voice what they felt in their minds.

After passing and adopting this constitution today we give it to ourselves on the 26th January next. Today is the adopting stage and on the above mentioned date it will come into force. That is going to place still more responsibilities on you. New elections will immediately take place and it will be for you to see that able and honest persons are returned to the Legislature. Those persons are going to form and run the future Government of the State. You yet another responsibility to discharge. It is not easy for everyone to understand and appreciate the provisions of this constitution. It is your moral duty to explain these provisions to your Constituents. You have to explain them the constitutional guarantees against exploitation. You have to tell them how this Constitution is going to banish illiteracy, hunger and want from the State. But all this depends upon you. You have got to prepare them to work for its implementation if we want to reap its fruits. It is your responsibility to tell to the backward classes who have been suppressed that the constitution is going to raise their status and will bring them on the same plane on which other communities of the State are. You have to bring home to them that the vicious circle in which they were cast by the autocratic regime has been put an end to by the constitution and it is going to stand as a guarantee for their future rights. This constitution is giving equal rights to all irrespective of colour, caste or creed. It is putting an end to sectionalism, communalism and provincialism and ushering secularism. By setting up a second chamber we have endeavoured to make all units inter-dependent thereby fostering a broadmindedness among the nation. This will make them to find a common solution to their common problems. The primary work of constitution making is practically over today and the

secondary work of preparing the people to accept and implement the constitution begins. Now it will be our endeavour to work hard for the establishment of a democratic and efficient Government under this constitution. I admit that our State is poverty-stricken and has a large illiterate population. This is a vestige of the old regime. There is no doubt that the primary duty which was entrusted to us by the people has finally been carried out by us with the co-operation of the public.

Under this constitution for the first time in the history of the State constitutional protections have been provided for the members of the State Civil Service. I hope that the Civil Servants will appreciate this spirit and will discharge their duties efficiently. I call upon them to imbibe the spirit of this constitution and work for its realization. With these few submissions I conclude my speech.

Mr. President: The question is:

“That the Draft constitution as revised be passed”.

Note:- The motion was adopted and the constitution passed.

RESOLUTION REGARDING DISSOLUTION OF THE CONSTITUENT ASSEMBLY

***Mir Qasim:-** Sir, I move that:-

Whereas the Constituent Assembly came into being for framing the constitution for the State;

And whereas the Constituent Assembly has enacted and adopted the Constitution for the State;

Now therefore, this Assembly resolves that it shall stand dissolved on the 26th day of January, 1957, which is the date of the commencement of the constitution.

Sir, I would like to make a brief submission with regard to this resolution. The resolution aims at dissolving the Constituent Assembly, by passing and adopting the constitution which will come into force on the 26th January, 1957. The Assembly has done its primary and main function and it is but natural that it should stand dissolved. Legally it could not have been dissolved by any authority because the people elected this Assembly for a special object. Now the object having been achieved it is reasonable to dissolve it by way of a resolution. Hence the resolution. This Assembly is not capable of protecting the constitution. It had only the mandate of framing and enacting a constitution for the State and nothing more.

The constitution has set forth the rights of the people. For protection of those rights the judiciary, the legislature and the executive will function independently and has further defined the limits of their powers.

I am confident that the party which led the freedom movement of the people of State in the past will also guide the people in future to look whether or not these three branches of the State authority implement and interpret the constitution in the right spirit. It now devolves on the political parties of the State to see whether the people of the State realize and appreciate their Constitutional Rights or not? If they do not, it is the duty of the parties to educate them in this behalf. In addition to this I believe political parties have yet another duty to perform; that is, to take such steps as would ensure that the rights of the people are not violated and are properly protected.

I feel that the Assembly has done its primary duty. Other acts of this Assembly done as a Legislative of the State or as the Government of the State by some members of this Assembly in my view are of secondary nature and importance. The reason for our parting with friends in 1953 was that they were trying to impede the work of constitution framing. But we were conscious that our prime duty was dot frame a constitution that is why we did not permit them to distract us from the path.

I hope that the future Government will try their best to implement the provision of this constitution to their best ability without fear or favour. I moreover believe that if the people realize or become aware subsequently they will be in a better position to protect their rights. Present Constituent Assembly's work has come to an end and it has done it duty successfully.

I hope the Hon'ble members will approve of this resolution moved in the House for the dissolution.

***Mr. Piyar Singh:** I second the motion, sir.

Mr. President: The question is:

Whereas the Constituent Assembly came into being for framing the constitution for the State;

And whereas the Constituent Assembly has enacted and adopted the constitution for the State;

Now, therefore, this Assembly resolves that it should stand dissolved on the 26th day of January, 1957 which is the date of the commencement of the constitution. (Motion was adopted).

***Mr. President:** I think this brings today's business to a close and we will meet here again on Monday the 19th November, 1956.

(Note: The Assembly then adjourned till Monday, the 19th November, 1956 at 11.30 A.M.).

Monday, the 19th November, 156/5th Maghar, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber Rajgarh Palace, Srinagar at 11.30 O'clock.

Mr. President (Hon'ble G. M. Sadiq) in the Chair.

***Mr. President:** Hon'ble members, today signatures will be affixed on the constitution. First of all, I will affix my own signature and then I will call out the names of all the members one by one, and everyone will, on his turn, come to the table of the Secretary to affix his signatures.

Note:- The Hon'ble President affixed his signatures on the constitution amidst prolonged cheers.

The Hon'ble President then called out one by one the names of the Hon'ble members and each of them affixed his signatures on the constitution.

***Mr. President:** Hon'ble members, it is a matter of joy to us that we have completed the task with which we were charged I 1951 our people had taken the important decision of convening this Constituent Assembly. At that time our country and our people were passing though a critical stage Hon'ble members, as you know, at that time our enemies had succeeded to the extent of creating an atmosphere of uncertainty and chaos; and even our leaders were at a loss to find out a solution of the problem. Anyhow, at that critical time our people had decided to take the fate of the country in their own hands. We had consequently decided to use our right of self-determination and to put an end to the uncertain state of affairs. According to this decision this Assembly met on the first of November, 1951, and was charged with the duty of presiding over this House. Five years have passed, since the

convening of this Assembly and during this period we passed through different difficult stages and it is gratifying that we tided over all these difficulties which came in our way. We have fulfilled the duty which the people had entrusted to us. (Cheers). Today's sitting of this Assembly is the last one and it has

Note: The star mark indicates that the speech was delivered in Urdu and the English translation thereof has been incorporated in proceeding.

given us a great satisfaction that the House had efficiently and admirably completed its task. It is a fact that we have discharged our duty in a praiseworthy manner and have framed the constitution. Within the limits which we ourselves had prescribed. During this period we entered into an agreement with the Indian Government which is known as Delhi-Agreement. We have framed the constitution within the terms of this Agreement and have safeguarded all those principles, which we were called upon to uphold by our people. This is a thing our duty yet it does not mean that our task is over We have to do something more. Our this constitution reflects all our desires and aspirations which have, in a systematic ways been given the shape of law. Whether you are in this House or not or in the Government, you have to get it implemented and in that event alone we can say that our task has come to a successful end. AS you have the privilege of framing this constitution ti will be your duty to see that it is implemented in a perfectly right manner. On the basis of this constitution you have laid the foundation of true democratic atmosphere throughout the country. The constitution which you have framed, after five years labour has a history behind it. We have been struggling for it continuously for twenty five years and thousands of the sons of the soil have sacrificed their lives in this struggle to achieve their object. The success of the Constitution will be

possible only when you bring about a congenial atmosphere in the State. We and every citizen of the State would have to see that the people act according to the provisions laid down in the constitution. On this occasion I want to pay my tribute to those martyrs who gave their lives and enabled us to lay the foundation of a democratic State. These martyrs shed their blood in 1931 and thereafter and thus enabled us to decide our own fate, by framing a constitution for ourselves. In the present times no better constitution can be framed, that the one you have given to the people. I, on your as well as on my own behalf, pay tribute to those martyrs and pray that our people will keep up and maintain the spirit and ideals for which these martyrs sacrificed their lives. During the last five years many events of outstanding nature took place which brought difficulties in our way and it seemed as if the history of our people will be written in a different manner. I am referring to the difficulty which we had to face in the year 1953 when some Hon'ble members of this House were led astray. They did not stand by the principles which were the life blood of our movement. In the year 1951 there were many problems before this House. The basic problem pertained to accession but unfortunately leaders were led astray and a dangerous situation was brought about in the State. But you and the people of the country overcame this situation bravely and put the people on the right path which we had chosen previously after due consideration. Even at present our enemies are trying to put obstacles in the way of enforcement and implementation of our constitution. Our neighbouring country Pakistan which has been opposing our freedom movement for the last nine years has recently protested that our constitution can neither be framed nor enforced. On the one hand Pakistan and other countries admit that the people of the State have the sovereign right of self-determination and on the other when the people of the State use

their right of self-determination, they cry hoarse to protest against its exercise. This is a very amazing attitude. Although it has been accepted by these countries that we have the inherent right of deciding our fate, yet whenever we have taken any step to exercise our right of self-determination; these countries tried to place obstacles in our way. Today we are taking final decision with regard to our main problem and in view of this they have begun to make protests. From this it is evident that their slogan for self-determination carries no weight and is a hollow one. The constitution which we have framed is a true reflection of our long cherished aspirations and of our sovereign right in respect of self-determination. I venture to say without any fear of contradiction that we have inherited the spirit and ideals martyrs and we are determined to maintain this valuable inheritance. No power on earth can change or modify our constitution (Cheers). However, it is an occasion for great joy for us that we have fulfilled the duties that were entrusted to us. On this remarkable achievement I heartily congratulate the Hon'ble Members of this House for the continuous work they have done during the least five years in this behalf and for the discipline and decorum they have all along maintained in the sessions of the Constituent Assembly. During these five years, sometimes I had to be a bit strict with you, and I apologize for this as well as thank you all for the spirit with which you co-operated with me and thus facilitated my work in the House. I am afraid I may have expressed myself on some occasion harshly during the deliberations and for this as well I offer my apology. My object in doing so was to maintain and uphold the prestige and dignity of the House to impress upon you the desirability of accomplishing your task in a perfectly thorough manner. In this connection all the Hon'ble Members have been good enough to co-operate with me even in their individual capacity. For this I again

thank the Hon'ble Members. On the first of November, 1951 when I was charged with the task I hesitated because never before I had an experience about this work or an occasion to do this job. It was your co-operation and sympathy which all of us have inherited that encouraged me to enter upon this august office. I am confident that there will not be any misunderstanding about me individually amongst the Hon'ble members, even if my opinion differed with their views they accepted it in co-operative spirit and never felt aggrieved. However, I once more thank you all and congratulate you for the work you have done. Probably after this there will be no session of the Constituent Assembly. We have at present no business to transact and consequently with your leave I adjourn the session. Sine Die.

***Bakshi Ghulam Mohammad:** Sir, I also want to say something.

***Bakshi Ghulam Mohammad:** Sir, today is an epoch making I thank you and allow the session to continue.

***Bakshi Ghulam Mohammad :** Sir, today is an epoch making day in the history of our national movement. On this day, the House, under your guidance has accomplished a task which will go down in history and will be remembered as an event of great importance for all times to come.

Every Hon'ble member and particularly you deserve congratulation for the framing of this constitution. Every Hon'ble member can hold his head high for the unique constitution, which has been given to the country. To every citizen whether high or low and to every community the Constitution provides a guarantee and leads the way to a rapid progress. Without going into the salient features of the constitution, which have already been discussed at length by the House, I must say that programme set out by the National Conference in October, 1951 embodying a desire to set up an Assembly of elected members having full determination to work

with sincerity of purpose and maintain the integrity of the country, has been fulfilled. For this every Hon'ble member and you in particular deserve to be congratulated.

Sir, there is no denying the fact that you have accomplished your task with full responsibility. The time and work done by you has proved that our selection was the right one and most suitable.

Doubtlessly this is a day of joy for us as the duty with which we were charged, has been fulfilled, in the best possible way. For this I repeat my congratulation to you and to our colleagues the Hon'ble members.

The constitution has been passed and signed and as I have said earlier, this event is a historic landmark and is a remarkable one. But with this achievement, a fresh responsibility devolves on us i.e., the responsibility of implementing the Constitution. We have to take our country ahead, along the chosen path towards a great goal. The ways and means to achieve this object have duly been provided in the constitution. In whatever position we may be we stand charged with the duty to put the country on the path of progress in accordance with the provisions of the constitution. It will be wrong to think that after passing the constitution our responsibility ends. I feel that our responsibilities have now considerably increased. We have adopted the constitution but we have to see that this is properly implemented. We want to prove to the world whether it may be Pakistan or its Prime Minister Suharwardy or any other country that what we say we translate it into action. We have to carry out the responsibilities which we have taken upon our shoulders.

In view of the malicious propagandas which is being carried on the other side we have to fulfill our responsibilities with determination and courage and thus maintain our unity and prestige of organization. I am of the

opinion that the greatest guarantee behind this constitutions the National Conference and the members of this representative organization which has to be run in the best manner. It was this organization which had come forward to meet the menace with which the country was faced in 1947. During 1953 it was the same organization which saved the country from a great chaos and even today it has to protect the country from all such troubles and put the people on the path of progress. The people of this country have made considerable sacrifices to achieve their objectives by acting upon the programme and in accordance with the policy of the National Conference. A mention about the martyrs who laid down their lives in the cause of the country's freedom has just been made in the House and I think that the first thing that we must do after the adjournment of this session is to visit the graveyard where they have been buried and pay our heart felt homage to them. At the same time we should solemnly declare and take a pledge that we shall maintain the independence, prestige, progress and integrity of the country for which these martyrs laid down their lives and that we shall courageously face and tide over every difficulty that may come in our way. I shall appeal to every political party in the State in the name of greatness of our heritage, integrity and prestige to study the constitution carefully and without any prejudice which will reveal to them that it contain all that is essential for the general progress which the country needs most. At present the country is in great need of solidarity and I am of the opinion that we have maintained it for all practical purposes. I shall request all my colleagues and friends to study the provisions of the constitution minutely and they will agree with me that there is nothing to which anyone could take exception to what is provided therein.

With regards to those friends who are not with us at present I will say only this much that may God help them to understand things in their true perspective and realize that the work which they had left half-done has now been completed by us. This constitution symbolize the desires and aspirations of not only a dozen or two dozen individuals but of the entire population of the State and of those as well who are not here with us.

Sir, I on my own behalf as well as on behalf of this House congratulates you for the patience, for bearance, discipline, broad mindedness and ability with which you have guided the deliberations of this House. AI venture to say that you have, during the last five years, not given cause for any complaint to anybody. I again reiterate my considered view that our selection with regard to you was justifiable and a right one. I once again congratulate you on behalf of this House and through you congratulate other colleagues and friends.

I would also say a few more words with regard to those persons who indulge in irrelevant and irresponsible statements. I would like to tell them that we have after the full exercise of our right of self-determination, passed the constitution and consequently the country is now to be put on the path of progress in accordance with the provision thereof. We ask t hose people whether they may be in the Security Council or in the White hall to give up such talk as has got no bearing on the actual facts and the real position and that they should try to devote their time on some constructive work. I may declare that so far as our constitution is concerned, not even the greatest powers on earth with their combined force can change it. We have only completed the work which our friends had let half-done sometime back and we are glad that we have not gone astray.

Our constitution is based on secularism and affords opportunities of development to everybody and does not provide special concessions or privileges for any particular community or class. This constitution has got the backing of the entire country with the exception of a dozen or two dozen individuals. Such powers as are at present approaching the Security Council or as are threatening to attack Kashmir and disturb the peace of this country should know that we have continuously been hearing their cries and it may be pointed that in the event of an aggression by them force will be met with force.

It has become our duty under the constitution which has been framed under your Presidentship to keep in view the interests of lakhs of people who are at present living beyond the Cease-fire Line. In case we deem necessary to send batches of volunteers there, we would not shirk in doing so. It may be pointed that we are not sitting idle but are considering as to what we ought to do in this behalf. It is not for the people sitting in Karachi to talk about this question, but it is our task to take decision in the matter.

Not to speak of one Suharwardy, even one hundred thousand Suharwardies cannot harm us. We are fully conscious of our responsibilities (Cheers). I am confident that every member realizes his responsibilities. They will, it is hoped, discharge their duties in the manner they have performed these in the past. They have faced every situation with determination and have seen many ups and downs. We pray to God to grant us courage to enable us to maintain our solidarity, unity and integrity. It is said that today National Conference lacks unity and solidarity; but I would like to tell such tale bearers that if National Conference ever had solidarity and unity it enjoys that only now that heavy responsibilities have been placed on the shoulders of this National body.

Our enemies have tried us many a time and were compelled to find us like rock. Today my hand trembles while putting my signatures on the constitution. This is not due to any fear of bullets but by reason of the responsibilities that these signatures entail. The other Hon'ble members also realize their responsibilities and with the grace of God they will carry out these with determination.

Sir, I congratulate you and through you the people of the State and of the Indian Union. Particularly I congratulate Pt. Jawaharlal Ji Nehru. I pay my homage to the martyrs who laid down their lives for the cause of the country whether he may be Brig. Usman, Brig. Rajinder Singh, General Atma Singh or other martyrs who sacrificed their lives while fighting the enemy at Zojila Pass, Drass, Poonch, Uri or Tithwal. I pay my heartfelt respect to all these martyrs. On this day their memory is refreshed in our minds and we pay homage to them. I think that his State and its inhabitants deserve to be congratulated. Once Gandhi Ji had remarked that it was only in Kashmir where he could see a ray of hope. Today that hope has been realized with the efforts of the people of this country. That dream of Gandhi Ji has come true, Sir, it shows your height of character and selflessness to under estimate your work in the Constituent Assembly. On the other hand we, in view of your honest and remarkable work, feel compelled to acknowledge your worth and ability and for this I again congratulate you in the end.

Mr. President: It would be a great omission if I adjourn the House without expressing thanks to Mr. Shahmiri. We have been benefited by his useful advice in the framing of the constitution and for this he has worked hard. I hope the Hon'ble members would join me in thanking Mr. Shahmiri. I express gratitude for the work he has done with use.

With this the House is adjourned sine die.

Note:- THE HOUSE ADJOURNED SINE DIE.

Friday, the 25th January, 1957/13th Magh, 2013.

The Constituent Assembly met in the Constituent Assembly Chamber Grey Hall, Jammu at 10.30 A.M.

Mr. President (Hon'ble G. M. Sadiq) in the Chair.

***Mr. President:** Hon'ble members, it is a historic meeting of the House. Some five years ago the people of our State decided to set up a Constituent Assembly to decide their fate and future affiliations. It was in pursuance of the same decision that this Constituent Assembly came into being. They entrusted us with a grave responsibility. For the last five years we worked hard to fulfill the mandate given us by the electorate. The House decided various major problems during the course of the last five years.

The most important question was to decide as to what would be the future set up of our State. The Assembly came into being with this mandate. I think that every Hon'ble member must be aware of the fact that these five years of our history cannot be called as years of normalcy. We saw many ups and down during this period. This House manfully faced the eventualities. We put an end to the situation of uncertainty which was created which was created by interested parties. And finally we had one more work to accomplish which was the greatest of all works done by this House and that was to give a constitution to ourselves and the people of the State. This work was also completed on 17th November, 1956. That day this

House passed a resolution declaring that the Assembly will stand dissolved on 26th of January, 1957, having completed the work entrusted to it. When I look back on the achievements of this House I feel a sense of pride and can say without any fear of contradiction that this work done by this Assembly is a glorious one (Loud applause).

This is not only a matter for me to feel proud of but eh peoples of the world bear witness that we completed our task under conditions of great danger and stress. Therefore all of us are waiting with abated breath to see the hour when this House stands dissolved formally.

Now the question which we have to face in return is to watch whether the provisions of this constitution, which we are giving to ourselves, are implemented in the proper spirit or not. Because those aspirations for which the Assembly came into being and did this work can only be fulfilled if this constitution is implemented in the right spirit. I do not intend to take much of the time of the House as I am aware that there is only one and a half hours time before this Assembly stands dissolved and while many a member would like to express their views on this historic session and I, for one, would very much like to give them every chance to say a few words,. However before closing my speech I would like to remind the House about the difficulties and hurdles which started coming in our way right from the time the people of this State became sovereign. On every stage difficulties and hurdles were placed in our way. But with solemn determination we removed one difficulty after another even today there are people who do not like to judge the situation in its proper perspective and like to overlook the reality. There is no power on earth which can check our progress anymore. I again say no one can check our progress. During the last ten years we experienced great many changes and all those changes are obvious. If

despite these great changes some people or a few friends or some countries do not like to admit the facts, we cannot but feel sorry for them. It is not today that we are deciding our future; it has already been done so many years ago. This is simply a constitutional shape to that formal decision. If anyone still feels that our decision must be changed, I have nothing to say but that he is living in a fool's paradise. When nation take a decision it is with a firm determination and no power on earth can effect any change thereto (Cheers). In view of the solemn determination with which we took those decisions I can say that our decision cannot be changed.

Finally I congratulate you for the work you have been doing for the last five years and for finally completing the same. I congratulate your all as well as every Hon'ble member individual for this achievement.

I hope that you will put your full force in the efforts to forward the decisions taken by this House and will prove to the world that our decision cannot be changed by any person or force. We had chosen to be apart of India as far back as 1947 and on 17th November, 1956, we confirmed that decisions and gave it a constitutional shape. We are an integral part of India and shall remain so forever. (Loud applause). You stick to your decision. Today we are not alone or unarmed today we are with India and 360 million Indians. Good will and moral support of 360 million people of India is with us. We are not having a dark and hopeless future but a bright and progressive future when the people of this State will be leading a peaceful life under this constitution. (Cheers).

***Mr. Ghulam Mohammad Bakshi:** Mr. President, Sir, I felicitate you on this occasion and also the members of this House and through their good offices to the people of their good offices to the people of the State I congratulate them today for having completed the work which was entrusted

to them in 1951. This was not an easy job rather it was a work entailing a great responsibility. This House had to face thousands of difficulties. Today we are meeting to assess the magnitude of the work completed by us since 1951 to date. Today we are meeting to part after having accomplished our task. In future to implement and to complete the work of this Assembly the whole nation will be responsible. We are aware of the magnitude of our responsibilities as also of our achievements and the decisions taken by us in this House I once again congratulate this House as well as the people of this State and assure them that from today onwards our hopes and aspirations will be fulfilled. Those aspirations and hopes are being fulfilled today for which we have been struggling for the last 25 years. I congratulate the House for having fulfilled one and all the promises we held out to the people. (Cheers). I congratulate the people for the constitution this House is giving them today which will meet their very need and fulfill their time old aspirations. This constitution guarantees the smooth progress of the State. This is a great achievement Sir, you have just now pointed out that the people of this State had to face a thousand and one difficulties before finally reaching their goal. In spite of all those hurdles and difficulties we went on with our task.

In 1951 this Constituent Assembly came into being and in 1952 adopted a few Articles of the constitution which are commonly known as Delhi Agreement. In February, 1954 this Assembly adopted the most important part of the constitution and finally adopted the whole constitution on 17th November 1956 which will come into force on 26th January. We are fully aware of the problems we will have to face in applying this constitution to our State. I as well as my colleagues are aware of the immense importance of our decision about accession to India. This House has taken many other

decisions besides deciding the question of accession. This House decided to abolish the hereditary monarchy and replace it with people's rule. It enacted agrarian and other reforms. All these reforms had only one aim and that was to lead the State on the road to progress. The crowning decision this House took was about accession of the State. Actually the decision was already taken in 1947 when our State was subjected to inhuman and barbarous Pakistani aggression. For four years from 1947 to 1950 we waited for the decision of the Security Council where India had gone with the complaint that Pakistan had aggressed against here territory. But failing to get any just and reasonable decision for years it end, the General Council of the National Conference felt that the Security Council was incapable to decided the matter justly and honestly. So in turn it decided to set up a Constituent Assembly which would decide the question of State's accession. The Security Council passed various resolutions at various dates, i.e., April 1948, 3rd June, 1948, 14th August, perhaps with a view to decide the question. But one U.N. Commission followed another U.N. Commission without deciding the question. We went to U. N. O. against the Pakistani aggression but, strange as it may seem, the U.N. impliedly dubbed Pakistan as an aggressor but no proper action against here. Hence inspite of so many Security Council resolutions we went ahead with our work which we finally completed on 17th November, 1956. it was no mean achievement. We took this decision with determination, courage and fortitude. The U.N. charter also upholds our decision indirectly because it stands for the sovereignty of the people. While exercising this own sovereign right we took this moment our decision. The whole nation is behind this decision and renders it irrevocable. We have all along been saying that no power on earth can change or alter any decision taken by the Constituent Assembly of the State whether the decision was

about accession of agrarian reforms or any other matter. Heavens have been kind enough to enable us to see the decisions of this House enforced today. Our decisions are final and they cannot be changed even if Security Council passes one resolution or another. One Noon or thousand Noon's or Afternoons cannot effect any change in our decision. We will go ahead with our task of nation building. Those nations who loudly claim to be the defenders of small nations and democracy have practically proved the emptiness of their claims by trying to place impediments in our ways. They have clearly manifested to the world how they were all out to deprive the 4 million people of Kashmir State of their right of self determination. Today we will demonstrate to those nine or ten members of the Security Council that we too know how to exercise our right and now no power can change this decision. I am very sorry that at present I cannot afford to deal with the long history of this problem. Shri Krishna Menon has, with great eloquence, placed the whole past history before the Security Council in a small time as nine hours but however strange it may seem the fact remains, that the powers present on the Security Council preferred a resolution three days before Shri Menon was scheduled to place India's case before them and introduced their resolution when Mr. Menon had not even completed half of his speech. They succeeded in passing this resolution I would like to remind Mr. Romulu and the mover of the resolution in the Council that we know the powers working behind the scene. Can they honestly say that passing of a resolution before even hearing the case of the other party is morally justifiable? What moral force they can have when they joined hands with our enemy to pass that resolution. They brought down the prestige of that body. The Council was made to put away its proper procedure and to pass the resolution The resolution is before everyone. If the Security Council has any

right to pass such a resolution, we too have the right to implement the decisions taken by this Assembly. Anyway the decision we are taking is a sublime one. We are also aware of our responsibilities. We do not say it for just the pleasure of saying something. We mean what we say. With the grace of God we will show to the world how we implement our decisions against which the Security Council resolution was passed. The members of the Security Council tried their best to place impediments in our way. They want to impede our general elections. We will demonstrate to the world that we are bent on having our first general election on the question of the Constitution and the people of the State will support us for the same.

I am confident about the support of a large majority of the electorate of our State (cheers) and the people will adopt this constitution. Incidentally the elections will provide the answer to those who declaim the right of this Assembly to decide the question of accession. I agree that we have no right to pronounce on any matter pertaining to New York or England or any other country but this is our State and invariably it is within our rights to take any decision about any matter relating to it. The people of the world will have to admit this right of ours one day or the other. This right does not belong to a few people but to the entire populace of this State.

Sir, whatever has been done for the betterment and uplift of the people of this State during this period is well known to everyone in this world. Uncertainty was put to an end in this State and normal conditions were restored. First plan was successfully completed and now the 2nd Plan is being implemented and the State is progressing on a fairly rapid pace. If we are sorry it is for that portion of our territory and for these brethren who are suffering under enemy occupation. The authorities of that territory have nothing to fulfill even their basic needs. They have only one thing and that is

jail for those unfortunate people. We feel immensely for them. Sir, you are aware that we have made a provision to set apart certain number of seats in this House for those unfortunate people. We have to again think what we should do for those people. We have to demonstrate to the world that we have been aggressed by Pakistan. Just as the Security Council recognized the provisions of the Charter so we also desire it to recognize the aggression and the aggressor. That will restore the prestige of the Security Council. But we will in no case feel ourselves bound to any such decision of the Security Council which goes against the wishes of our people. I feel sure the people and my comrades will support me in this matter. (Cheers).

We have time and again declared unequivocally that we are not opposed to any nation. We are not desirous of the destruction of Pakistan rather we would very much like to see the people of Pakistan happy and prosperous. So far as the ruling clique of Pakistan is concerned, it is went upon throwing the people of Pakistan into the deep dark ditch of destruction. We have full sympathy with the people of Pakistan. We do not intend to attack any country nor are we war mongers. We respect the independence of other nations and value our freedom also and would like others too to value and respect our freedom. We have learnt to value freedom from the father of the nation Mahatma Gandhi. He pointed out his road to us and we are keenly following that path and will continue to follow it. We will defend our freedom with determination against aggression and attack from whatever quarter it is launched (Cheers).

It is a day of mirth and jubilation for the whole nation. One sees that the people living in cities like Jammu and Srinagar as well as in small towns and villages are feeling jubilant over this sublime achievement. Even the people of the Indian Union are joining with us in merry-making. According

to the Pakistani leaders tomorrow will be a day of mourning in Pakistan. Why this mourning? Only they can give an answer to this question. We cannot feel happy on their mourning, rather it pains us Sir, we are well aware of our responsibilities and we take every step with responsibility. There is one important responsibility which devolves on us. We are just entering the second important period of our history. We must not be disunited nor should we waver in our aims and determination. I will like to appeal to every individual living in this State as well very political party to foil the nefarious plans of the enemy directed against our freedom. Pakistan and her allies must know that Kashmir was alone and unarmed in 1947. At that time they were able to occupy even half of our State territory but hey must also remember that the unarmed people of the State pushed them back. We are no longer alone today. India is with us. 400 million people of India are with us. Besides that millions over millions peace loving people of the world are with us. They respect our freedom and know who are our enemies. Thus no one can dare to attack us now in order to destroy us. Today we have taken a solemn decision to live in peace and with the grace of God we will live so. (Cheers).

I am sure that many Hon'ble members will like to say something. Therefore, I will not take much time of the House. On behalf of this House and on my own behalf I congratulate Shri Krishna Menon for the courage eloquence and ability with which he pleaded our case before the Security Council. There is no denying the fact that he wonderfully represented the sentiments of the people and this House. I would also thank those friends who have sent us messages of good-well on the adoption of the constitution. I congratulate the members of this House. Today they are meeting here for the last time to bid each other goodbye. They will now prepare themselves to

fight the elections under the new constitution I feel confidently sure that the people will return them to the legislature for their integrity, hard work and humanity. (Prolonged cheers).

Mr. Mir Qasim: President, Sir, the House has today successfully completed the work entrusted to it. Hon'ble Bakshi Sahib has quite eloquently placed before us all the problems and difficulties we had to face. This House was successful in finding a correct answer to each problem and finally gives the State Constitution. After such an eloquent statement I find little need to say anything more. However I feel strongly that I should draw the attention of the House towards a few questions it has decided.

It is a well known fact that in 1950 the National Conference decided to convene a Constituent Assembly for the State. All those people who were desirous to see a prosperous Kashmir backed this decision and they still wish Kashmir well. A few persons have, however, served from decision. At the time when the National Conference decided to set up a Constituent Assembly, the Government of India also stated that the proposed Assembly was to end the autocratic rule and set up a democratic regime in Kashmir and besides this it will also ratify the accession of the State in India already entered into through the instrument of accession which was accepted by Lord Mountbatten, the then Governor-General of India. The Assembly was free to ratify that accession. The late Mr. Gopala Swami Ayanger said in this connection that the Assembly was free if it choose to continue or not to continue the accession and could decide for Kashmir to secede from the Union. I very well remember the words of the Indian leaders when they said that the Assembly can choose to remain with India or secede from here. In view of the fact that this Assembly had the right not to confirm the accession. I wonder how can one have the face to say that this Assembly was

incompetent to ratify the accession. If it was competent to do one thing it was also competent to do the other. These things were manifest in our election manifesto. Our election manifesto clearly stated that firstly this Assembly will decide the future of hereditary rulership and, secondly, it will decide the question of land compensation to those land-lords whose land was distributed amongst the tillers; thirdly, the Assembly was to frame a constitution for the State and lastly, it was to decide the question of State's accession. Hence in pursuance of the manifesto the Assembly took decisions at various times about these questions. It decided the question of land compensation. In view of the general poverty of the tillers of this State the Assembly decided to compensate the landlord. It decided in favour of a democratic state as against the autocratic State. And, finally, it decided that Kashmir is already an integral part of India and will ever remain so (cheers). This Assembly also framed a constitution and appointed 26th January, 1957, as the day of its application to the whole State. The constitution will come into operation after 12 p.m. today. Some friends were tantalized on finding that the constitution will not only apply to that part of the State which is already enjoying the blessings of democratic Government but will also apply to the area which is under Pakistani occupation for the time being. It was but natural for Pakistan to be tantalized in her turn. They are aware of the fact that they are in illegal occupation of that territory to which the State constitution will apply on the 26th of January, 1957, and thus they are moving the Security Council. People living in Ladakh, Kashmir, Jammu and even in occupied areas have facts before them to see. They also know the facts of the case India presented before the Security Council. I was just a little while ago listening on the All India Radio the recorded proceedings of the Security Council. The Council is meant to safeguard democracy and

check out break of war. But the decisions of the Security clearly belie all this. On the contrary some members of the Security Council veil their war designs by bringing into discussion un-necessary matters and avoiding the real issues at stake. The Security Council took up even the matter of application of our constitution. It was not only India alone which pleaded our case before the Security Council but the representative of a very big power in the world also stated the correct facts before the Council. The representative of the Soviet Union stated in unequivocal terms the facts of the case. It is not only what Shri Krishna Menon or the 40 million people of India say but the representative of a mighty State like Russia also says that it was India who called on the U.N.O and the Security Council nine years ago to rescue Kashmir from barbarous Pakistan armed aggression. The Security Council decided that a plebiscite be held in Kashmir under foreign supervision to settle the Kashmir dispute India could not agree to such a plan which meant foreign interference in our domestic affairs. With the laps of time the conditions also changed. According to the representative of the Soviet Russia the people of Kashmir put an end to the state of uncertainty and set up a popularly elected Constituent Assembly. This Assembly enacted various important laws and the Provision that Kashmir will ever remain an integral part of India is one part of those basic laws. This is the decision of the people of Kashmir. This is what the representative of the mighty Soviet State says about the Kashmir question. In fact conditions have materially changed from what these were in 1947 when the complaint was lodged in the U.N.O. The Security Council closed its eyes from the facts. The people of Kashmir have decided to become a part of India. Even a mighty nation like Russia has accepted this fact and yet it passes my imagination as to what justification was there for the Security Council to pass that resolution. I was

surprised to read the part played by Cuba in the Council Let it be know the Cubans that they are a far smaller nation, smaller than our State and with less population though I have not got exact figures to quote. It is a pity that Cuba which moved the resolution has even yet to go to polls. Whereas a nation like Cuba has the right to be represented on the Security Council along with other nine or ten nations. I ask why China with a population of 500 million people is denied that right I can say with confidence that if China is allowed a seat in the U.N.O that country will also support our case, thus bringing the large majority of world's population to our support. Countries like Cuba, Britain and France and their allies have refused to accept our decision. As a member of the Constituent Assembly I say that it were the imperialists who divided India. I would like to ask British Government how is it that 40 million Muslims are still living in India as free citizens though they dividing India on the plea that the Hindus and the Muslims cannot live together peacefully. Not only the Hindus and the Muslims are living in India but Christians, Sikhs, Buddhists and so many others also live there. Was not the division of India on religion basis the result of an imperialist intrigue? The English came to India as traders setting up a company at Bombay. By and by they became the rulers of India and put to gallows thousands of freedom loving sons of the soil. Is it not obvious that they created Pakistan to perpetuate their imperialistic designs. It is in pursuance of the same designs that they are arming Pakistan. Thus facts prove that the imperialist powers are still working hard to carry out the old plot they have laid against us. They are displeased with India simply because their intrigues have been foiled and have no scope of success there. India refuses to be drawn into those nefarious intrigues like S.E.A.T.O and M.E.D.O. So far as Pakistan is in the military pacts how can one think that

by deciding Kashmir disputes various disputes between India and Pakistan can be settled. India persistently refuses to be drawn into these pacts India is exploiting her resources for developing her economy and industry. Thus her policy is such which furthers this aim and hence he is not prepared to become a party to such nefarious pacts.

Attempts were made to make Kashmir a hot bed of these intrigues but the people and the leadership defeated them at the very outset. The suggestion that Anglo-American forces be stationed in Kashmir under the nominal supervision of U.N.O was a part of that well aid intrigue. Meanwhile they were successful in entrapping a few people in Kashmir. All the Hon'ble members must be aware about the aims of the imperialist powers in destroying our independence. When they failed in this they adopted another tactic. They started arming Pakistan. This was done with a view to make Pakistan a spring-board to launch an attack on other States, so that their own country does not become the battle field. This fact was a determining factor for our future affiliations. As Pakistan, by joining SEATO and other military pacts, has been drawn into the cold war so we could not join her. Some interested parties began to say that as the majority of the population is Muslim and also as the Srinagar-Rawalpindi road is some two miles less than the Srinagar-Pathankote road, so we must join Pakistan. The State Government has a ready reply for the latter question. It has arranged that the Srinagar-Pathankote road remains open to traffic all the year round, and has thus practically refuted their argument. India is a country where people of various castes and creeds live tighter and Kashmir too is such a state. Kashmir has the largest population of Muslims, Ladakh of Buddhists and Jammu f Hindus and thus their first argument was also proved to all intents and purposes to be devoid of any meaning or logic.

However, they took up another slogan, that of plebiscite. The people of Kashmir gave their verdict in a most democratic way which is on very plan the best substitute of plebiscite and their verdict was that Kashmir is an integral part of India and will ever remain so. The people of this State further demonstrated that inspite of the threats of Pakistan or any other country they will stick to their decision. Again the interested parties began to say that Kashmir is facing a crises and if the crises is not ended they would attack the State and take it by force. How strange is it that the resolution sponsored by an aggressive country having war like designs was given priority in the Security Council. It is obvious that Pakistan does not go to the Security Council on its own but is prompted to do so by other powers. I would like to remind the American and the British Governments that they will fail here as they have failed elsewhere. Sir, we know the game they are playing. They prompt Pakistan to move the Security Council and when they fail to gain their end they give a fake decision in favour of the aggressor and postpone the Council Session. And finding another favourable opportunity they again move the Council, the Kashmir question is again discussed and the same old routine follows without taking any final decision about the question. One has to see whether this highest tribunal does justice to the complaint or not? We have to see as to which are those powers that support the aggressor and which powers oppose the aggressor. In view of the State's accession to India as for back 1947 and in view of the subsequent pledge of the people and the Parliament of India. I hope they will continue to help us always against a ruthless enemy. It is

Qasims Portion.....

their moral and legal duty to help and support us as they are doing at present. India cannot tolerate any interference by any country in Kashmir. The people of this State as well as India are not in favour of war and also they never talk of guns etc. Our case is quite clear. We claim that certain parts of our State namely Hunza, Nagar and a part of Muzaffarabad which are at present under unlawful occupation of Pakistan, should be restored to us. Pakistan invaded the State. The same matter is pending with the Security Council. The case before the Security Council is not to decide as to what should be the status of Kashmir. Kashmir is a part and parcel of India. As no one can say what status should Bombay or Hyderabad enjoy vis-à-vis India, similarly no one has any right of deciding the question of accession of our State. Kashmir issue is not issue at all. What would happen in Kashmir? My answer to this question is that roads will be constructed, canals dug out and there will be an end of poverty and suitable medical arrangements would be made to fight different epidemics. This will bring “Naya Kashmir” into existence (cheers).

The matter before the Security Council is as to what would be the position of the aggressor and if the aggression will be ended. How will Pakistan vacate the territory under her occupation? If she is not prepared to vacate those territories in the peaceful and friendly manner, then we shall have to consider other meaning to make them vacate the aggression. In Kashmir the hereditary rulership was abolished, the land was distributed among the tillers by which both Hindus and Muslims were benefited. Similarly, many other reforms were effected. The new constitution was framed which will be enforced completely from 26th January, 1957. It is said that there will be no constitution. Does it mean that this State administration should not run on democratic lines, the Supreme Court the highest judicial

organ should stop functioning? Should the Indian Parliament cases to act in accordance with the provisions of the Indian Constitution relating to the State? This is wrong to say that we cannot enforce the constitution on 26th January. The State has acceded to India many years ago. Now from 26th January, all democratic institution of that State would function as these functions in other States of India. Now an independent judiciary will function here. The elections here will be conducted on democratic lines. A Democratic Govt. will be formed under the new constitution. Should not such democratic institutions function in the State? Does Pakistan want that the Govt. once established should continue forever? If the public here wants that the National Conference alone can deliver the goods than the National Conference can assume office in a democratic way. What is going to happen on 26th January? From what date the constitution will come into force under which every adult will have the right to vote. This will happen on 26th January. We will have an administration based on Socialist pattern. That will drive away poverty, exploitation and starvation from our State. When Mr. Suharwardy will return home after two months tour of foreign countries the people there will demand democratic institutions from him and would press for the functioning of there institutions. They would never demand bombardment on Poonch. If he avoids granting these democratic institutions to them perhaps they being displeased with him, would jointly rise and set up such a Government which will govern the country on democratic lines. In this way the relations between India and Pakistan will become better.

Mr.Kushak Bakula: Mr. president, Sir, it is with feelings of genuine pleasure that I rise to congratulate the Leader of the House and the other honorable members of the successful accomplishment of a task of historic importance namely the passing of a secular democratic constitution for our

State, a constitution which guarantees to every citizen and every section of the population of the State freedom of thought, speech and association, which secures equality of rights and opportunities to all the people of the Stat, irrespective of caste, creed and sex, which in short is the rock foundation on which the magnificent superstructure of a socialistic welfare State can be securely raised to the Skies, every single feature of this constitution is a charter for our liberties, our progress and prosperity and is, therefore, worthy our whole-hearted support . But its happiest and most significant feature is very soul I should say, is its declaration relating to the State's accession to India, on which it fixes the seal of absolute finality, which it places beyond the reach of wagging tongues and which in fact, it makes as immitigable as a law of Nature. That we thus made an integral part of India, that great country of high ideals and glorious traditions to which is the one potent factor for the maintenance of world-peace in the present day world, cannot but be a matter for unlimited jubilation for all of us and I cannot, sir, refrain from offering joyous felicitations to the leader of the House and to those associated with him in this sacred task on this sublime achievement.

I should be filing in my duty if I did not take this opportunity to say that ever since the present regime, under the wise and positive leadership of Hon'ble Bakshi Ghulam Mohammad ,began to function Ladakh has emerged from the dense-fog of despotic tyranny and degrading servitude and exploitation into the bright sunshine of true democracy and political and economic emancipation and that the intense solicitude of both the Government of India and Kashmir for our development and prosperity for which no expense and endeavor are spared by either is already transforming our land beyond recognition. The recent appointment of Shri Datar Singh to push on the development schemes of Ladakh furnishes a measure of India's deep concern for our welfare and the steps along with the measures adopted by the Kashmir Government brings home to us the deep anxiety of the two Govts., to see their plans or our prosperity implemented without unnecessary

loss of time. Shree Datar Singh, permit me, Sir, to say, by the way, is using all his dynamic energy to lead us to our destined goal.

Before, I resume my seat, my I say, Sir, that all Ladakh has gone into a hysterics of joy over the making of the constitution, for they are confident that it will not only ensure to them the continued enjoyment of rights conceded to them by the present Government but also secure to them the fulfillment of the totality of their aspirations by filling up the new lacunae which a catalogue of their demands reveals. Thank you.

***Mr.G.L.Dogra:-** Sir, today is really a historic day. The importance of this day is not confined to Jammu and Kashmir State alone but it extends to India as well as beyond India. Its importance has affected the people in different ways. The democratic countries are very much pleased on this occasion but the countries not liking democracy have felt tantalized and want to explain this fact to the world in a distorted manner. So far as our occasion to India is concerned, it was completed in the year 1947. It is constitutionally complete and final. So far as our relations with India are concerned, those were settled in the shape of Delhi Agreement in the year 1952 under the leadership of Sheikh Sahib. This agreement was placed on the table of the House and was passed. Similarly, the Indian Parliament passed the Delhi Agreement. In this connection the Presidential Ordinance was issued in April, 1954.

So far as accession is concerned, it was decided long ago and so far as our relations with India are concerned, these are already laid down in the Constitution of India. We completed the constitution on 17th November, 1956 and have also reiterated the same position again. The part of the constitution dealing with our State's relationship with India came into force from the date the constitution was finally adopted and the remaining part of

the constitution, which was not put into force immediately, will come into force in a few minutes' time.

With regard to those parts Hon'ble Mir Qasim has dealt with just before me for long and we have been successful in detecting their nefarious designs.

I would say that the imperialists have been conspiring against us signs time and again. From the date the Soviet Union came into being the imperialist powers have been watching eagerly to entrap our country. They tried to have their military bases in Kashmir. They have also divided the State into two parts. When they did not succeed in their motives, they instigated Pakistan to invade the State. When India went to the Security Council the members without hearing her case gave their judgment. The way in which these powers and their nefarious design were exposed is well-known all the world over. The truth is finally coming to light. While facing other things it is perhaps our first duty to defeat the designs of imperialist powers .(Cheers)

***Mr.President:** We have very little time at our disposal. We have received messages of felicitations in hundreds. So now I would like the Secretary to read those messages to the House. The time is very short and after nine minutes this constitution will come into force and with that this Assembly will stand dissolved.

Note: The Secretary read out the message received from various quarters in English . These messages from the appendix to the proceedings.

***Mr.President:** Today this historic session ends and with this the Constituent Assembly is dissolved according to the resolution passed on 17th November, 1956.

Note: The clock struck 12 P.M. and the Constituent Assembly was dissolved

by the President , Hon'ble G.M. Sadiq, according to the resolution passed by the Constituent Assembly on 17th November,1956.

APPENDIX

THE FOLLOWING MESSAGES OF FELICATATIONS HAVE BEEN RECEIVED ON THE OCCASION OF THE CEREMONIAL MEETING OF THE CONSTITUENT ASSEMBLY ON FRIDAY, THE 25TH JANUARY, 1957.

The 26th January, 1957, will go down as a red letter day in the history of Kashmir. The people of Jammu and Kashmir have cast their lot with India in an unmistakable manner. The wisdom of their choice has already been proved by the progress that they have been able to make during the period of their association with India. In future this progress is bound to be accelerated. The people of India have watched with admiration and sympathy the Kashmir people's struggle for liberation and are happy at its successful culmination. There can be no doubt that they will go all out to be of help to them in the future development of their State. May the people of this vale of fruits and flowers ever flourish and go from strength to strength.

Y.B.CHAVAN

Chief Minister Bombay

2. I am very happy to learn that the State of Jammu and Kashmir is formally launching its new Constitution on 26th January 1957. May, I on this eventful occasion wish every success to the working of the new Constitution and a

rapid tempo of social and economic progress of the people of Kashmir side with the people in the rest of the country.

R.S.SARAIYA

Bombay

3. On the glorious occasion of launching of new Constitution for your State as integral part of India. I am overwhelmed with pride and satisfaction that your long drawn-out struggle has at last fructified and that your State is today firmly welded to this destinies and glories of our Motherland INDIA.

Yours is an enchanting State, veritably a paradise on earth that draws people from all countries in the World. Your fame will now spread further. May you now forge forward a greater glories and welfare of the people of Kashmir who have been so far denied the benefits of a truly democratic constitution which is now before you to enable you to achieve peace and plenty to each and every citizen, young or old, high or low.

I wish all prosperity and progress to your State hereafter.

M. L. DHANUKAR

Bombay

4. I personally can never visualize the non-inclusion of Kashmir in the union of India. We must be grateful to the Prime Minister for taking a very definite and a firm stand on this question and all that I can do as a humble citizen of India is to wish Kashmir all prosperity under its new constitution as a part and parcel of India.

V.N. CHANDAVRKAR

Bombay

5. I send my greetings and good wishes to the people of Jammu and Kashmir on this memorable day when the New Constitution came into operation. This Constitution enshrines the Sovereign will of the people and has therefore a special significance for all of us. We shall now be able to march forward together in our endeavor to develop our resources and build up the prosperity and happiness of our countries so that they could be a source of strength to the maintenance of peace in this part of the world.

MORARJI DESAI,
Minister Commerce

6. There is not one in India who will not rejoice with the people of Jammu and Kashmir when they celebrate on the Republic Day, the completion of the Constitutional structure of their State. This will mark the culmination of a process which had started nine years ago, and has since been developing from state to stage.

The Constitution of Jammu and Kashmir is indeed a glowing tribute to the political sagacity of the Kashmir's themselves. By adopting and adapting what is best in India's Constitution-though they were free to act otherwise-the Constituent Assembly of Jammu and Kashmir, in fact, evinced a signal regard of the ideal of liberty and democracy. The fact that the people of the State can claim the same system of constitutional Government for themselves as the other State of the Indian Union is one, which can fill them with legitimate pride.

May I express my fervent wish and prayer that Jammu and Kashmir may march shoulder to shoulder with the rest of India to the glorious future, which is theirs?

C.C.BISWAS

Minister for law.

7. I am glad to learn that the Constituent Assembly of Jammu and Kashmir is going to hold its final meeting on 25th January, for the formal commencement of the New Constitution of the State that will be fully brought into force from the following day. On this happy occasion, I send my hearty congratulations to you and your colleagues in Constituent Assembly and my fraternal greetings and good wishes to the people of Kashmir.

G. B. PANT,

Home Minister.

8. It is a pleasure to all of us to learn that the Constitution of the State of Jammu and Kashmir will be approved by the Constituent Assembly on the 25th instant and starts functioning soon thereafter. It is no doubt a marvelous success that the State has achieved during your regime. Many the people of the State rise to a prosperous position.

That is my fervent prayer to Allah the GREAT.

S.M. OZAIR MUNEMI.

Minister for Jail, Relief and Reh. Bihar.

9. I send my greetings to the people and the Government of Kashmir on the occasion of the full enforcement of their newly adopted Constitution on January, 26, 1957. The Constitution only reaffirms is most unmistakable terms the people's resolve to maintain their family toes with India. Once

again the people of Jammu and Kashmir have rejected separatist theories and upheld the ideals which our secular State of India holds so dear. Today, every son of India whether Hindu, Muslim, Sikh or Christian rejoices in this great hour of Kashmir's history. Kashmir's accession and integration with India has always been an accomplished fact and is bound to end in dismal failure. By God's grace, Kashmir will continue marching on the road to progress and prosperity.

ABDULLABHAI,

M.P

10. The Citizens of Bombay along with their countrymen everywhere are making preparation for the celebration of the Seventh Anniversary of the Sovereign Republic of India, which was inaugurated on 26th January, 1950. It is indeed a happy news that on the auspicious day of 26th January, 1957, the State of Jammu and Kashmir is formally launching its new Constitution. We are happy that the people of Jammu and Kashmir have by their own free will chosen to accede to India. We are proud that Kashmir since the achievement of independence has made great progress and is on the path of a welfare State. The citizens of Kashmir can rightly take pride in the achievement of their Government and there is no doubt that they will give whole hearted cooperation for the success of the new Constitution, which assures every citizen social Justice and equality of opportunity. We in India share with the people of Jammu and Kashmir their immense joy and delight. On this great occasion, we extend our most sincere greetings and congratulations to our brothers and sisters in Jammu and Kashmir and express the hope that in the atmosphere of liberty and democracy, India along with Kashmir will march forward on the path of progress and

prosperity and that our country will be blessed with internal and external peace.

SALEBHOY ABDUL KADER,
Mayor of Bombay.

11. In accordance with the decision of the Constituent Assembly of Jammu and Kashmir, the new Constitution framed and passed by the Assembly will come into operation from the 26th January, 1957 and that day will hence forward remain a red letter day in the history of the State. The State of Jammu and Kashmir has been a part of India right from 1947. All these years the process of integration has been proceeding apace. The new Constitution confirm what has been a settled fact for many years past and in addition it confers on the people free and democratic institutions and representative forms of Government. The State has made great progress notably during the last three years and I am confident that, by the blessing of God, the New Constitution will become an instrument for promoting the welfare of the people and the prosperity of their great country. I send to the Government and the people of the State my warmest felicitations on this auspicious occasion and my best wisher for their future well-being.

KAILAS NATH KATJU,
Defence Minister

12. I congratulate the Government and the people of the Jammu and Kashmir on this happy occasion, which is an important turning point in the history not only for this State but of India as a whole. Kashmir has been an integral part of this Country from time immemorial and it would be doing

violence our history, political, economic and cultural, to think in any other terms. The new Constitution, which is to be inaugurated on the 26th instt. Well, I have no doubt, ensure peace and prosperity to the State and make stronger the ties that bind it to other parts of our great Country.

DR. SAMPURNANAND
Chief Minister, U.P.

13. I am most happy to hear that the new Constitution of Kashmir and Jammu would come into force on the 26th of January, 1957, which is India's Republic Day and that the Constituent Assembly is holding its final meeting on the previous day.

On this accession when the people of Jammu and Kashmir are giving to themselves a Constitution by which they will be governed, I send to you their leader and to the people through you my very best wishes.

T.T.KRISHNAMACHARI,
Finance Minister

14. All India will reject with the people of Kashmir on this historic occasion. Your spirit of freedom and the love of liberty has seen you through great trials and tribulations and has sustained your endeavors. May the Constitution, which you are adopting today, help the people to march forward towards progress in peace.

K. KAMARAJ
Chief Minister, Madras

15. I write to convey my occasion cordial greeting to the State of Jammu and Kashmir and the people of that State for their historic decision to adopt the Constitution framed by the Constituent Assembly with effect from the 26th of January 1957. May you and your State prosper now and forever?

B.C.ROY

Chief Minister, Bengal

16. I greet the people of Kashmir on this historic and auspicious day when your new Constitution is coming into force. The Indian Republic is following the concept of justice, equality and fraternity and I trust that our countrymen will try to live up to this ideal.

KHANDUBHAI K. DESAI

Minister for Labour

17. The promulgation of the New Constitution of the State of Jammu and Kashmir as prepared by Constituent Assembly marks important milestone in Kashmir's exciting journey towards peace, progress and stability. The people of Kashmir by their self-sacrifice have written a glorious Chapter in the annals of our country. The New Constitution of Kashmir is the vindication of the people's right of self-determination. Under your inspiring guidance and enlightened leadership the people of Kashmir by their valour and determination have forged a new destiny. Our country stands on the threshold of a more promising future and Kashmir in a greater measure will share in the common progress. Twenty-sixth January is for us a day of rejoicings and of dedication to our purposes and ideals. On this historic

occasion, on behalf of the people of Rajasthan and on my behalf I sent to you and through you to the gallant people of Kashmir our fraternal greetings and sincerest good wishes. We rejoice in your triumph and affirm our friendship for all times to come. We hope and pray this sacred day inaugurates for the people of Kashmir a new era of all round progress and prosperity.

MOHAN LAL SUKHADIA
Chief Minister, Rajasthan.

18. Republic Day this year assumes great significance because on January 26, 1957, the Constitution of the State Jammu and Kashmir, as an integral part of the Republic of India will be formally inaugurated.

After a victorious struggle against their enemies from abroad and fifth columnists from within, the people of Kashmir welcome the inauguration of the new Constitution as the culmination of revolutionary developments which have through various stages led to the declaration of Kashmir's inviolable unity with India.

On behalf of the people of Punjab, my colleagues and on my own behalf, I send my heartiest greetings to the people of Kashmir, our friends and comrades of the National Conference and their leader Bakhshi Ghulam Mohammad, on this historic occasion.

Punjab and Kashmir are bound by unbreakable culture and social ties. In recent years these bonds of unity have been further strengthened by our admiration for the people of Kashmir for their heroic stand against wanton aggression from across the border.

Kashmir's decision to attain political and economic integration with India in the context of the present international situation is a befitting reply

to the false and mendacious claims of the imperialists and their Pakistani satellites.

On the 26th January, the people of India and Kashmir reaffirm their sacred pledge to up hold the banner of freedom, socialism and progress a pledge which is written in blood of martyrs who fell before the bullets of the tribal and Pakistani raiders.

In the name of the sacrifices and suffering of patriots who challenged the might of British imperialism and its feudal hirelings in Kashmir for more than three decades we take this pledge.

Thousands of brave sons of India have defied the Himalayan heights in order to defend Kashmir and its peace loving people from an unprovoked invasion and have, thus, made this promise with destiny on our behalf.

Today, Kashmir joins the brotherhood of the Indian people and continues its forward march towards the ideal of a Socialists State under the leadership of Jawaharlal Nehru.

I salute Kashmir and its heroic people once again.

SARDAR PARTAP SINGH KAIRON,
Chief Minister, Punjab.

19. I send the people of Kashmir my felicitation on the fulfillment of their aspirations by drafting a Constitution for themselves by democratic means through their Constituent Assembly. The new Constitution which comes into effect in its entirety on 26th January, will no doubt usher in an era of grater prosperity for the people of Jammu and Kashmir State.

We in Indian are keenly interested in the welfare of our brothers and sisters in Kashmir and rejoice at this successful conclusion of their struggle for freedom and self fulfillment.

It is doubly significant that we in India are celebrating the seventh Anniversary of Republic of India and our brothers and sisters in Kashmir are simultaneously launching the new Constitution brining for them greater political and economic development.

On this occasion I send my greetings to you through you to the people of Kashmir.

FAZAL IBRAHIM RAHIMTOOLA

Bombay.

20. The framing and the formal adopting on the 26th January, 1957 of the new Constitution of the State of Jammu and Kashmir will be a triumph for the working of free democracy, and a pledge that through such working the desires and wishes of the people will be attained. By a peaceful revolution the power has been placed in the hands of the people, and the people have, in their freely elected Assembly. New framed for themselves the laws and rules of their Constitution by which they have elected that they will hereafter be governed I wish to the State and to its new Constitution a glorious, happy and prosperous future.

SAIFF B. TYABJI,

President Anjuman-i-Islam, Bombay.

21. It is a day of considerable satisfaction and significance when the people of Jammu and Kashmir are giving themselves a new Constitution framed by their own Constituent Assembly. Its great importance lies in he fact that the people of India, who have already adopted a completely secular and

democratic Constitution for themselves and under which our people have made such rapid and tremendous progress. It is a matter of extreme satisfaction to all of us that we will have our brethren in Jammu and Kashmir by their own free choice as an inseparable part of India and equal citizens of their great country. On this historic occasion I wish to convey my heartiest Best Wishes to the Government and the people of Jammu and Kashmir and pray that God may grant us wisdom and ability so that we may serve our people in a manner which may bring them peace and prosperity.

S .ALI ZAHEER,

Minister of Justice, U.P.

22. It is matter of great satisfaction that the State of Jammu and Kashmir is launching its new Constitution on the 26th of January, 1957. It is an evident of undoubtedly great significance not only for the people of the State but for all those who stand for democracy, harmony and good will.

In the days of Communal bickering and narrow mindedness, you and the people of Kashmir have stood firm like a rock for broad non-communal and healthy nationalism. It is not a small matter, this decision of the people of Jammu and Kashmir, I have no doubt is a right one and will help their growth economically and otherwise tremendously.

As an Indian and a Muslim, I have been observing the developments in Kashmir very minutely. I have no doubt this decision of the people will lead to their welfare and happiness. I congratulate them on this occasion and wish them every success in their effort.

MUSTAFA FAKI,

Agriculture Minister Bombay

23. January 26th is a glorious day in India's history. This year the day has added significance in that it sees the end of an unhappy episode and unites Kashmir with the rest of the Country.

The land of Kashmir and her people have always had a charm for the rest of India. Now, united to India once more, Kashmir can march best with the other States to the new design of living that is developing. The beauty and charm of Kashmir's culture will really enhance the luster of this new design.

The new spirit which has been born in our country since independence is talking us day by day forward. If, in the year to come, we pressure this new spirit, the urge to strive and achieve and enrich it with democratic traditions, then no doubt India will become a truly great nation. In the building up for this new India, Kashmir is given full opportunity under its new Constitution.

Long live India. May God guide the people of India and Kashmir always through the right path?

Y.A.FAZALBHOY,

24. On behalf of the people I represent I convey my most sincere and hearty good wishes for an auspicious inauguration of your Constitution embodying the rightful expression of the free will of the people of Jammu and Kashmir, which is their birthright. I also wish at a most successful and brilliant career to lead the people concerned to happiness and prosperity.

ABDUUL MATLIB MAZUMDA,

Minister Assam

25. I am very glad that the Constituent Assembly of Kashmir is meeting on January, 25th for formal commencement of its Constitution which constitutionally brings the State in close integration with rest of Country. Kashmir has been part of India. Its freedom movement was equally part of national movement in the Country as a whole which culminated in Indian Republic. During last ten years people of Kashmir have of their own free will become partners with people of rest of country in great process which is leading India to attain goal of political freedom economic justice and national solidarity by peaceful and democratic means. I have watched with delight rapid progress being achieved by people of Kashmir under guidance of patriotic band of workers which you have the privilege of leading. On behalf of myself and people of U.P. I send my greetings to your Sadar-i-Riyasat, yourself and people of Kashmir.

K.M.MUNSHI,
Governor U.P

26. The State of Jammu and Kashmir has long been closely associated with India and our cultural and social as well as political and economic relations have been most intimate and cordial. As such it is really gratifying to note that as a result of the implementation of the new Constitutional step taken by the people of Jammu and Kashmir will usher in a new era in their life and thereby secure for them adequate opportunities for all round advancement. It will provide that with the necessary facilities of living a better and fuller life and ensure the desirable peace and plenty for relief they have been long striving I am particularly happy to note that the accredited national leaders of Jammu and Kashmir have publicly announced in most unequivocal terms that the decision of the people of their State to accede to the Union of India

in final and irrevocable. Every democratic Nation should appreciate and honour this decision characterizing free will of the people concerned. The people of Jammu and Kashmir will nationally celebrate this historic day with due éclat and new phase of their national life will commence forthwith in this unprecedented occasion in my won behalf and also on behalf of the people of the State of Bihar convey my heartiest felicitations to the people of Jammu and Kashmir State. I wish the new Constitution of Jammu and Kashmir God speed.

ABDUL QUAIYAM ANSARI
Minister Public Works Bihar

27. On the occasion of the inauguration of their new Constitution I send my heartiest greetings to the people of Kashmir, who by this historic act, have decided to become an integral part of India.

Ever since the time of partition Kashmir has become an acid test of the secular character of our Republic and the Muslims of Kashmir have rendered a great service to the 45 million Muslims of India by expressing their confidence in the democratic set up of India and by proving the world that our country recognizes no distinction of race or creed. This is a great gesture on the part of Kashmir, which is bound to have far-reaching effect on the future relations between the various communities which is habit this great and ancient land; it will make democracy safe and secularism secure in India.

RAFIC ZAKARAI,
Bar-At-Law Bombay.

28. The twenty-sixth of January, 1957 marks the glorious end of the heroic drama which the people of Jammu and Kashmir had been writing with their blood and tears for nearly 27 years. It initiates a bright new chapter in their history, heralding an era of peace, progress and prosperity. The Constitution which comes into force today makes them the masters of their destiny and lays the foundation of a secular democracy and the rule of law. People over India rejoice that their brethren in Jammu and Kashmir, whose fate is now indissolubly linked with theirs, are now launching on the fascinating enterprises on building their future and wish them God speed in their onward march.

B.H.ZAIDI

29. My warmest congratulations to you on the great step you are taking in formally launching the new Constitution of Jammu and Kashmir on the 26th January, 1957 I am so glad that your people are very happy and prosperous due to your great work. I wish you and your State every success.

SIR MOHAMED USMAN

Madras

30. Sincere greetings and good wishes to the people of Jammu and Kashmir on this auspicious occasion, the Republic Day, when the new Constitution of yours comes into force, I have no doubt that under your dynamic leadership Jammu and Kashmir would march forward on the path of progress and prosperity, and play its rightful role in the fulfillment of your country's great destiny.

LAL BAHADUR SHASTRI.

All India Congress Committee

31. On this auspicious day I wish to convey my cordial greeting to my compatriots in Jammu and Kashmir on the first big step they are taking towards integration of their State with the Indian Union. The Praja socialist party has constantly striven for the speedy and complete integration of that State with the motherland and I cherish the hope that this year of grace, 1957, so pregnant with events, will be year of fulfillment. Let us all pray to God for that happy consummation.

H.V.KAMATH
Member Parliament

32. I am glad to convey my best wishes for the success of the New Constitution coming into force on the Republic day.

FAZIL ALI
Governor Assam

33. Hearty congratulations for the Constitution. It is historic event and your great achievement.

ABDUL SATTAR
All India Akbar Khuda Dan-e-Khalq,
Delhi

34. From the early days of India's First five year plan the people of Jammu and Kashmir have been full partner in the common effort to arise living standards and increase national wealth. The progress made under the First plan different sectors of economy and the volume developmental work carried out in various parts of Jammu and Kashmir State have been

unprecedented. The agrarian reforms carried out in the State have given the land to the tiller. The activities of welfare Department like Education, Public Health and Rural Development have considerably expended. Special emphasis has been laid on measures for community and Rural Welfare, Industrial co-operatives have been established which advance credit and other requisite facilities to cottage workers. Nearly a lakh of refugees displaced from the Pak occupied areas have been rehabilitated. The tourist trade has made considerable headway and the working of the transport organization has been improved substantially. New sources of electric power have been tapped and several projects launched for increasing the supply of power. Large tracts of cultivable area in the State have been exploited for production of food grain and the farmers are being helped with better seeds, fertilizers etc. to produce more. The outstanding achievement of recent times has been the successful completion of the low-level Banihal Tunnel Tube which is regarded as an engineering feat of the first order.

2. The successful implementation of the First five year plan in Jammu and Kashmir has prepared the way for a much more ambitious programme during the Second plan. It is the aim of these Plans to bring prosperity and strength to all the people of Jammu and Kashmir and especially to those who have in the past lived close to poverty. Through them the wonderful gifts of nature are becoming a means of happiness for every citizen. The Plans aim at many-sided and balanced development and their success opens a new era in the long story of Kashmir.
3. On this momentous occasion the people of Jammu and Kashmir may well recall their achievements in recent years and may look forward to much bigger things that are coming. I

take this opportunity to facilitate the people of Kashmir on the decisive step that is now being taken towards their great destiny.

G.L.NANDA.

Planning Minister

35. It gives me immense pleasure to send my best wishes and sincere greetings to the people and the government of Jammu and Kashmir on the historic occasion of the enforcement of the new Constitution of the State with effect from the 26th January, 1957, the date on which we celebrated our Republic Day.

The significant culmination of the process of gradual integration of the State of Kashmir with the Republic of India marks a new era in the relationship between the peoples inhabiting the respective territories, who have fought unitedly in the past against the forces of feudalism, reaction and darkness in the face of enormous difficulties. It is gratifying to think that from now on they will effectively and unitedly participate in the building of new India according to the chosen principles of secularism and democracy. The socialist society of our dreams ensures a great future for every Indian irrespective of his religion, race and social customs. It is with such ideals and aspirations that I enthusiastically welcome the decision of the Kashmir Constituent Assembly to dissolve itself on the eve of 25th January 1957, to join hands formally and irrevocably with Indian Republic in the interest of the people of Kashmir and India.

SYED MAHMUD,
Minister in the Ministry of
External Affairs