

[Pandit Fotedar]

mir is the only place which is having this experiment in human philosophy and with a Muslim majority has acceded to India. Kashmir is fighting against odds in the furtherance of this ideology. Kashmir is the only place where the Hindus and Muslims lived amicably against odds and we want Kashmir to be administered in that friendly atmosphere, and I trust our hon. Dr. Shyama Prasad Mookerjee will see sense and lead us in this behalf as also in many other things.

Shri Jawaharlal Nehru: I must express my gratitude to the many hon. Members who have spoken in the course of this debate, and spoken generously, about the policy that the Government has pursued in regard to the State of Jammu and Kashmir. We have had today an abundance of generous acknowledgment of that policy. We have had criticism also, and I welcome it, because criticism is always a little helpful in understanding a particular position, and in this very difficult and delicate matter the more aspects we examine the more light is thrown upon it and the better it is for all of us. We have dealt with this matter for near upon five years now. We have fought the good fight about Kashmir, on the field of battle for over a year there and many of our brave young men went there and remained there. We have fought this fight in many a Chancellory of the world and in the United Nations but above all, we have fought this fight in the hearts of men and women, above all in the hearts of men and women of that State of Jammu and Kashmir. Because ultimately—I say so with all deference to this Parliament—the decision will be made in the hearts and minds of the men and women of Kashmir, neither in this Parliament nor in the United Nations nor by anybody else. So, we have dealt with this problem in a variety of ways in various fields of action and we have not solved it. We may have gone on in a particular direction but we have not yet solved it, and I want to be perfectly frank with this House. I promise no speedy solution. Why should I make promises which I might not be able to keep? And may I remind this House that in the world today there are ever so many problems, big problems, affecting the world's future which remain unsolved which go on from month to month and year to year and are not solved? It is mercy enough in this world that they do not go much worse. That itself is supposed to be a great mercy and a blessing. It is all very well when some people in

foreign countries who occasionally think it their duty to give us good advice tell us. "Why do you not solve this question of Kashmir which may lead to, well, big things, to a world conflict and all that?" There are many people who are generous with their advice to us in foreign countries. One feels tempted to say to them that they are also engaged in some problems, whether it is in the Far East or in Europe or elsewhere, that somehow carry on from day to day and year to year. Why do they not find a solution of them? Why is it that we are at fault because we cannot solve the question of Kashmir, but they are right in carrying on not only these problems but preparations for future creation of problems? But that would be a cheap reply for us to make to them, because we are all in difficulties struggling against all manner of developments in the world which perhaps are not entirely within the power of any one country or any one people.

So, I should like this House to consider this problem, as it has considered it, in all its aspects and to forget for the moment the minor things, the lawyers' points if I may so call them with all respect to the lawyers who have their particular place provided they keep it. There are many things that have been said. My hon. friend, Dr. Mookerjee has said a great deal about this clause and that clause. If I have the time I may deal with them, but really it is of little importance what this clause or that clause says or does. What is important is your approach to this problem, what is important is the fundamental basis of it—whether you understand it or not—what is important is what is your objective really and what is the way to gain that objective. If it is your objective—as I claim it must be and should be and there can be none other—that this problem has to be decided by the people of Kashmir, by their goodwill, by their minds and hearts being with you, then you must adopt a policy to gain that end, there is no other policy? Why issue threats? Why talk to them and say, "You must do this, you must not do that"? It does not matter. I am called a Kashmiri in the sense that ten generations ago my people came down from Kashmir to India. It is not that bond that counts in my mind today but other bonds, bonds which have arisen much more in these five years or so, bonds which have tied us much closer. Not me only—I am a symbol for the moment. Vast numbers of people in

India and Kashmir have been bound together in these five years of conflict against a common adversary. So, we accept this basic proposition that this question is going to be decided finally by the goodwill and pleasure of the people of Kashmir, not, I say, by the goodwill and pleasure of even this Parliament if it so chooses, not because this Parliament may not have the strength to decide it,—I do not deny that—but because this Parliament does not function in this way and rightly so, because this Parliament has not only laid down in this particular matter that a certain policy will be pursued in regard to Jammu and Kashmir State but it has been our policy, it has been our heritage that we would not impose our will against the wishes of other people. We choose other methods, other approaches, we follow other policies.

Therefore, we must be clear in our minds that this question in regard to the future of Jammu and Kashmir State can ultimately only be decided by the people of Jammu and Kashmir State. Having come to that conclusion then let us fashion our other policies accordingly, then let us not find fault with something here and there because it does not fit in with our wishes. Many things have happened in Jammu and Kashmir which I do not approve of—there it is. I have no doubt many things have happened and will happen that my hon. friend opposite may not approve of and I may not approve of, just as many things happen not only in Jammu and Kashmir State but in the rest of India that I do not approve of. I do not control everything that happens in India—I do not presume to do so. I put up with it. But what is our approach going to be? If that is our approach then we must not do anything which counters that approach, which undermines it, which uproots it, which really encourages the hands of those who are opposed to us—our enemies, our opponents, our adversaries and the like. That is the basic thing which we must understand. Let us be clear about it. You can criticise Sheikh Abdullah, Sheikh Abdullah is no God—he commits many errors, he will commit many more. He is a brave man and a great leader of his people. That is a big enough thing. He has led his people through weal and woe, he has led them when they were facing grave disaster. He did not shrink from leadership at that time—that is a big enough thing to be said about any man. If he has failings, if he has made a mistake here or there, if he has delivered a speech which we do

not like, what of that? Bigness is bigness in spite of a hundred mistakes. It is not a matter of Sheikh Abdullah or anyone else. It is a bigger matter than any individual and in a sense this question of Kashmir, as this House well knows, has not been for us—certainly it has not been for us—a question of territory. We gain nothing. Financially, in money matters, we gain nothing—it may cost us much until ultimately it develops; because it is a rich country ultimately, undoubtedly, it will develop. But anyhow we have not cast covetous eyes upon Kashmir because of any gain. We have cast eyes on Kashmir because of old bonds, old sentiments and, well, new sentiments also, and it has become very close to our minds and hearts. And if it so happens that by some decree of adverse fortune Kashmir goes out of India, it would be a wrench and a pain and a torment to us. But whether it is a pain and a torment, if the people of Kashmir want to go out, let them go because we will not keep them against their will however painful it may be to us. That is the policy that India will pursue and because India will pursue that policy people will not leave her, people will cleave to her and come to her. Because the strongest bonds that bind will not be the bonds of your armies or even of your Constitution to which so much reference has been made, but bonds which are stronger than the Constitution and laws and armies—bonds that bind through love and affection and understanding of various peoples.

6 P.M.

That being the approach, many of the arguments that some hon. Members opposite have advanced seem to me to be inapplicable. They do not apply. I can easily criticise many things that have happened; I should like some things to happen which have not happened—that is easy enough. I might try to better it, but that is a different matter. But the point is: whether in doing so you are trying to get what you are aiming at, or, are you really coming in the way of your very objective? The hon. Member from Kashmir who spoke last—he is a representative of the minority community of Srinagar, a Kashmiri pandit, much more so than I am—gave you some kind of a graphic account of those days when everybody in the vale of Kashmir, Muslim or Hindu but more especially the Hindus and the Sikhs, stood in terror of the morrow. Nobody knew what might happen—or perhaps they knew too well. The people of Kashmir, and the women of Kashmir especially, have a

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certain reputation outside Kashmir also. And mind you, the women of Kashmir, Hindu and Muslim, in considerable numbers were taken away by these raiders and others, they were spread out way up to Afghanistan and beyond even, and sometimes sold for a pittance. Hon. Members should think how these stories and these accounts must have affected the people of Kashmir and those connected with Kashmir and how they must have thought that this might be the fate on the morrow of their own sisters and mothers and wives, etc. Now, they have gone through that and they faced that; they did not run away from it—it is not particularly easy to run across mountains unless you have cars, etc. So, during these five years there have been these ups and downs. No doubt many mistakes may have been committed, but looking back on these five years I think that the people of Kashmir, the people of India and with all humility if I may say so, the Government of India, in spite of numerous small mistakes that they may have committed have stuck to the right path, broadly speaking. They have not given up the straight and narrow path. They have stuck to it sometimes even when it appeared not very opportune; sometimes when others were displeased; sometimes when a little swerving to the right or to the left may have gained some advantage to us in foreign countries, and the like. And foreign countries began to count for us. It did not matter much what we thought of them, but there they were sitting in the Security Council and talking a great deal, sometimes some sense, sometimes not sense. That was happening all the time, and we had to put up with these people trying to judge us, trying to judge a thing which was so important to us, not because of territory as somebody suggested but for other reasons I have mentioned. They thought of Kashmir as a geographical unit, as a plaything for them. Here was Kashmir, very much in our hearts. Due to all those circumstances, it had become so much tied up with our feelings, emotions, thoughts and passions that it was a part of our being. And we saw these foreign countries dealing with it in this casual way, and talking about India's imperialism, about India trying to conquer Kashmir etc. We restrained ourselves, but very often there was anger in our hearts, anger at this intolerant criticism, at the way people have the presumption to talk to us, to this great country of India. They were talking of imperialism to us when they were carrying on their

own imperialism and their own wars and all that and were preparing for future wars. They talked to India like that, and because we went there to protect Kashmir from territorial invasion, they dared and had the temerity to talk of India's imperialism. Well, as I said, we restrained ourselves and we shall endeavour to restrain ourselves still in future, but restraint does not mean weakness. It does not mean giving in in this business. To the end we knew, because we were firm and convinced of the rightness of our position, because as I said—and I said it with all honesty of purpose—I have searched my heart and I have looked into every single step that I have taken in this Kashmir matter and while of course my Government is responsible for it ultimately I have been personally concerned with every single step during the last nearly five years. Looking back over those five years, I think, that there are some things that I may have done otherwise—maybe some minor things—but I do not see any major step that we have taken which could have been otherwise than what we have done. It may be that there may have been a miscalculation, but it was a fundamentally right step demanded by circumstances from that first day when we sent our young men flying over the mountains to Kashmir in the end of October 1947. In other steps we may have erred sometimes in the cause of peace, in the cause of avoidance of war, if you like. I want to err in that way always, but for people to accuse us of avarice or covetousness, of imperialism, of breaking our words and pledges,—well, I say and I repeat it that every single step that we have taken, every single word that we have given to the United Nations, to the United Nations Commission or to anybody else who has come here,—every single word and pledge that we gave and every assurance that we have given we have kept to the uttermost letter, which is much more than can be said for Pakistan in this matter, because this whole Kashmir business is based on a fundamental lie, the lie of Pakistan in entering Kashmir and denying it. I do not mind if they want to go there. Let them go there and fight. But why lie? For six months they did it and they did it and then said they did not do it. When you base a case on a lie, the lie is repeated and it was repeated in the Security Council month after month. There were their armies, and their Foreign Minister went on saying that they were not there—an astonishing thing—and when the United Nations Com-

mission was here and was on the point of going to the front, of course there was no possibility of concealing this fact. Then they admitted it, and admitted it how? They had to admit it anyhow, and a paper was put in by the Commander-in-Chief of the Pakistan Army and that Commander-in-Chief was a well-known British officer. That Commander-in-Chief put in a paper saying that he had been compelled in the interests of protecting Pakistan to send his armies—the Pakistan armies—into Kashmir because he was afraid that India was going to invade Pakistan across Kashmir somewhere down from Central Asia. Now, that is the beginning of this extraordinary story of Kashmir and it is as well that this is repeated again and again, because people forget it—not hon. Members, but other people—and this matter has become international and it is talked about in the various capitals of the world. This simple story, these simple facts of invasion, of brigandage, loot and arson are forgotten and passed over and other discussions take place. It has been an amazing education for many of us these five years over this Kashmir question—education, if I may say so, in world politics; education in how nations behave; education in how great countries get distorted visions and cannot see straight in the simplest matter when it so suits them. Well, I am perhaps talking a little apart from my present brief, but I would like to come back to this very matter and say that it is not merely that we have stated it to the United Nations or to the people of Kashmir, but in the very nature of things, in the very nature of the policy we have pursued not in Kashmir alone but everywhere, it follows that the people of Kashmir only can decide and that if I may say, in spite of our five years of trouble and expense and all that we have done, if it was made clear to us tomorrow that the people of Kashmir wanted us to depart from there, back we will come, however sad we may feel about, because we are not going to stay there against their wishes. We are not going to impose ourselves there at the point of the bayonet. If that is so, then the ultimate thing, the final thing, the chief thing that counts is their wishes.

It is true that their wishes do not mean that we should do the wrong thing. Suppose they want us to do something wrong in Kashmir. We refuse. We cannot do it. We may even say, "Well, we prefer rather not to have this kind of wrong asso-

ciation at all." It is a conceivable thing. We do not want a wrong association. Nobody can force us into a wrong association, just as we cannot force them into an association against their will. An association is a matter of mutual understanding, affection, union etc., and if there is going to be an association, our wishes and willingness count. In our desire to gain the goodwill of the people of Kashmir we cannot gain our own illwill and take the wrong path. That is a different matter. We are not considering this matter as a bargain, as a matter between strangers, but as between partners, between part of ourselves, who consider it a difficult and delicate problem and try to find a way out. The way out may not be completely logical; it may not be completely reasonable from the point of view of this law or that Constitution, but if it is effective, then it is a good way out, whether it offends against some legalistic arguments or logical arguments or not.

My hon. friend referred to various matters. One thing I should like to say in this connection, although it is rather perhaps not to the point and I am afraid of saying it because of so many lawyers here. When the British went away from here there was a good deal of misunderstanding as to the situation that was then created in India, because of the partition and because of the statement issued by the United Kingdom about the Indian States, etc. Now I may venture to put forward my own view, for the moment functioning as a jurist and constitutional lawyer. It is this. The partition took away a certain part of India, separated it from us with our consent. But all the rest of India, including the States, remained as a continuing entity. Till something happened to take them away, we were a continuing entity; we are a continuing entity. We did not come out of partition. Pakistan was cut off at the time of partition. India was, India remained, India is, India will be. So every State, till some final decision was made about that State deciding to go out of India, continued that old relationship with India, for the intervening period if you like. In the nature of things, there could not be, whatever the British Government might say in any statement, innumerable authorities in India.

By the removal of the British power from India in 1947 to some extent we were thrown back to the days when the British power came here. That is an interesting and good parallel to pursue in other ways too. But I will not pursue that, because it may lead to some

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controversial argument. When the British power came here and established itself, it became quite evident that that power must be predominant in India and nobody else can remain independent. They may remain semi-independent, they may remain as protectorate, in a subordinate capacity and all that. Gradually the British power brought all these princes and others within its domain and under its suzerainty. So, it was impossible after the British power went away, in fact more impossible than it was in the distant past, for any odd bits of independent territories to remain here. Pakistan was, of course, out of the picture. For the rest it was inevitable that the princes and others, whoever they might be—whether they acknowledge it or not, whether they wanted it or not, it is immaterial—must acknowledge the suzerainty, the sovereign domain, of the Republic of India. Now if that was so, even if Kashmir did not as it so happened decide whether to accede to Pakistan or India and we allowed the matter to be postponed for a while, that did not make Kashmir independent for the time being. It was not independent and our responsibility even then continued as the continuing entity if anything happened to Kashmir. I wish to say this because our duty to come to Kashmir's help was there, whether Kashmir acceded to India or not. On account of that continuing entity, India's responsibility to other parts continued except to those parts which had definitely and deliberately parted company.

Dr. Khare made a curious statement on Hindus being killed somewhere. This is the first time I heard of it. I really could not understand what place he was referring to. Perhaps his geography was weak. He was perhaps thinking of some other part, maybe Pakistan. I have not the faintest notion how I can connect it with Kashmir.

Dr. S. P. Mookerjee: He was referring to Mirpur-Poonj—that is in Jammu and Kashmir.

Shri Jawaharlal Nehru: There is no doubt that people were killed in Mirpur—I do not know about the numbers. I rather doubt the correctness of his numbers, because the whole population of Mirpur was not that much. There is no doubt that there was killing there when the Pakistan troops and soldiers came there.

There has been a good deal of the use of the word "monarchy". I do not just understand the sense in which it was used. We have no monarchs in

India. I understand the meaning of the word "monarchy". I do not know why these wrong words are used to delude us. We have got some persons, who by the generosity of our States Ministry are still called 'Rulers'. Why, I do not know, because they rule nobody. Our States Ministry in the last three or four years has been known for its generosity and I am afraid we shall suffer for that generosity for a long time to come.

The Minister of Home Affairs and States (Dr. Katju): They are known as ex-Rulers, not rulers.

Shri Jawaharlal Nehru: I think they are known as Rulers.

Dr. Katju: I always use the word 'Ex-rulers'.

Shri Jawaharlal Nehru: I remember sometime ago I was told by the States Ministry: 'Of course they have no position left. They are pensioners. Would you mind, just to please their vanity, if we call them rulers still?' I said 'please yourself'. But it is really wrong for us to use these terms which mislead, for example monarchy.

There is no monarchy in India. There are in certain places, certain families, princely families if you like, who have got large endowments, very large, unnecessarily large. They hope to live on those endowments for generations to come. Then there are a few Rajpramukhs. There are now three States headed by Rajpramukhs; in other places there are groups of States and one of the rulers or ex-rulers has been chosen to be Rajpramukh for life.

Pandit Thakur Das Bhargava: They are not ex-rulers. They are rulers as defined in the Constitution itself.

Shri Jawaharlal Nehru: That shows how the Constitution requires amendment!

So we have got these Rajpramukhs. Some of them are excellent people—it is not a personal matter—some of them may not be quite so excellent. But it is obvious that this decision to give life tenure to anybody in a particular office is entirely not in keeping with either modern thought or intelligent thought. It may be accepted in a particular context of events of course, as we did. One must remember the particular context of events and not be too critical of what was done. That particular context of events was when hundreds and hundreds of States had to be absorbed rapidly within a few weeks into India, when as a matter of fact a number of those princes might well have given a lot of trouble, when in fact to our knowledge some were

on the point of giving major trouble, when some secretly did give trouble and when the other troubles came—the communal troubles, after August 15, which were really largely political in their nature—some of these people and their families and cousins and uncles did a lot of harm and injury and participated in them and gave money and gave guns and gave gangs of rowdies to go about creating mischief. Now, that was the position: there were these hundreds and hundreds of States all over India, big and small, not knowing what their future was going to be, afraid of their own people, afraid of the Government of India, left in the lurch by the protecting hand of the British power. We could have decided many things at that time. We could have decided, if you like, to remove them completely from the scene or to come to terms with them and thereby buy immediate peace at a moment of great peril to our country. I think Sardar Patel acted very wisely. It is very well for us to be wise after the event and say 'this might have been done this way and that might have been done another way'. But if you remember that particular context, when there was grave danger, possibly of India going to pieces, under the stress and strain of the passions raised by the partition and the huge killings all over, the communal things, and all these reactionary jagirdari and feudal elements throwing themselves into the picture just to create trouble and disruption and hoping—some of them, I know for a fact—in the confusion to enlarge their domain,—it was foolish of them to hope that, but nevertheless hoping that way,—well, one had to come to some decisions. And Sardar Patel chiefly, and all of us also partly, came to the decision that it is better to consolidate India quickly and rapidly even at the cost of some money than to allow this wasteful fratricidal warfare and civil wars to continue, because apart from other things, even from the point of view of cost they are much more costly, and then they leave a trail of tremendous bitterness behind. So we came to these conclusions and came to certain settlements which by themselves are hardly just, financially or otherwise, but which were the price we paid for a quick settlement of a very difficult and vital problem.

Now, I am not going into the question as to how we are going to deal with all these matters in the future. That does not arise now. Obviously, the matters will have to be dealt with in the future, dealt with I hope in a friendly spirit by all those concerned.

Obviously also, what happens in one place has its reactions and repercussions on another. And undoubtedly, what is happening or is likely to happen in Kashmir must have its reactions elsewhere.

Now, the hon. Member Dr. Mookerjee referred to various things. About article 352 he said a great deal and he asked me whether certain other articles dealing with financial chaos or financial emergency or the Constitution breaking down would be applied. I shall answer it. As we are concerned at present, we are not applying those articles. We have not even put them forward for consideration. I would beg the House to remember that we have to proceed on a certain basis, a basis it so happens—I am not excusing myself but it so happens—a basis which was made in my absence from India—I was in America at the time—and laid by that stout builder of this nation, Sardar Patel. At that time when this new Constitution—I have said this before but I repeat it—was being finalised, when the question of Kashmir came up, it was dealt with in article 370 of the Constitution. I would beg of you to read that article 370, because if you discuss this question now, you must discuss it on the basis of the article which we agreed to, which is part of our very Constitution. Do not say that we go outside the Constitution. We go to the Constitution itself to find out how to deal with Kashmir.

That is what the Constitution says. It is true, as has been pointed out, that that article was not a final and absolute provision. That article itself was a transitional article. But it laid down, the method of decision in the future. It laid down the mode of how we should proceed in the future, and if more things are to be added on to the subjects or anything how it should be done. And everywhere throughout you will see two classes of subjects. One was something in relation to the three major subjects or rather to the three categories of subjects, namely, Defence, Communications and Foreign Affairs. In relation to them if any change was to be made in their interpretation, the President was to do it 'in consultation with' the Kashmir Government or the Constituent Assembly there. In regard to anything else the words used were not 'in consultation with' but 'with the concurrence of'. Those were laid down in the year 1949 in November or December. And that is part of our Constitution.

Why then should anybody complain that we are going outside the Consti-

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tution, that we or the people or the Government of Kashmir are committing a breach of the Constitution? It may well be that the Government of Kashmir may ask us to do something which we do not consider proper. May be, but then it is a question of our talking to each other and finding a way which both we and they consider proper. And if we do not consider anything proper, well then it does not happen and the consequences are faced, whatever the consequences are, obviously. And the consequences may not be agreeable to them or to us. There is no other way. There is no question—as some of the amendments of hon. Members say—of our issuing some kind of a fiat, decree or sending some compulsory order "Obey, or you will suffer for it". That is not the way to deal with this matter. That is not the way we can deal with this matter. We have either to come to an agreement or we do not come to an agreement and face the consequences. But I do submit that we approached this matter and we shall, I hope, always approach this matter in a spirit of friendship because we have to remember that there are so many aspects of this question—external and internal. The 'internal' aspect is at present under the Kashmir Government. The effect of what they do in that part which is called wrongly Azad Kashmir, which is under Pakistan, the effect of that on others, the effect of foreign countries on India—there are so many aspects of the thing that you cannot just look at it from your own point of view. You must consider all these matters. It may be that the people in Kashmir have a particular aspect in view and it may be that you have not considered it and if you consider it, you may be convinced. May I point out to hon. Members that Dr. Mookerjee complained that he was not consulted.....

Dr. S. P. Mookerjee: I did not complain.

Shri Jawaharlal Nehru: He mentioned about it, if I may say so and yet only a little later he said that Sheikh Abdullah wrote to him and wanted to meet him and consult him.....

Dr. S. P. Mookerjee: After the decision was taken.

Shri Jawaharlal Nehru: That is true; it is difficult; surely Dr. Mookerjee will not expect Sheikh Abdullah or a member of this Government in the course of any important talks to be constantly consulting others. It is impossible; it cannot be done. If I may say so, members of my Cabinet were hardly con-

sulted, and apart from those members who had a particular commission to deal with this matter, others were consulted after the talks were over. We discussed with them and we got their agreement to it. What I was going to say was this: Sheikh Abdullah was anxious to meet the Members of the Opposition. He did not have the advantage of meeting Dr. Mookerjee, but he did meet his colleague Mr. Chatterjee and he had a two hour talk with him. I was not present at the talk, but Mr. Chatterjee was good enough to write to me and to inform me that he had this talk and that he had been influenced by what Sheikh Abdullah had told him. That is what he wrote to me, that he now realised that there were many other aspects which had not been put before him previously. You see there are many aspects to this question: Then there is another thing. I refer to article 352 which deals with Proclamation of Emergency: it reads as follows:—

"If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation make a declaration to that effect....."

In a sense the President can do all manner of things including taking charge of the whole State. What in these talks we suggested and we agreed to at the request of our friends from Kashmir was that where there was reference to internal disturbance, this action should be taken with the concurrence of the Government, and whether it is external aggression or war or other things, then their concurrence is not necessary. Undoubtedly that is a variation in favour of that Government, and hon. Members are entitled to criticise it. Will hon. Members remember again the basis from which we start? We start from article 370 for the present moment. Article 370 rules out article 352 and all the other articles, that is, at the present moment, keeping strictly to the Constitution as it is applicable to Kashmir State, none of these provisions apply, so that what we have said whether in regard to this matter or in regard to the Supreme Court or in regard to the President's other powers—these are all new things added on to Kashmir, that is the supremacy of the President or this Parliament or the Supreme Court to the extent that they accept it. These are all new things added on to that extent. So it is not as if we are giving up some-

thing. We have very specifically laid down this very important provision of the Constitution, 'that the President can take charge of the whole State itself under a grave emergency' should apply to that State but in case of internal disturbance with the concurrence. This seems very odd and some people say: How can you ask or wait for their concurrence? It is not such an odd provision. As a matter of fact, if the whole is in a chaos, then nobody waits for anybody's concurrence; he takes the steps, but I might say that this particular phraseology is taken from the American Constitution, where the Federal Government can take charge in an emergency of the State with the concurrence of the State Government. So it is not very new and undoubtedly it is open to members to criticise or not. But the point is that there is nothing very odd or very special about it and in all the circumstances, we felt that it is better for us to take it in this form than to leave it.

Then Dr. Mookerjee asked a somewhat rhetorical question.....

Dr. S. P. Mookerjee: Citizenship rights.

Shri Jawaharlal Nehru: That was not so rhetorical.

The rhetorical part was: Is Kashmir subordinate to this Parliament of India.....

Dr. S. P. Mookerjee: So far as this Parliament is concerned, whether this Parliament is a sovereign body or the other body the Constituent Assembly of Kashmir is sovereign and also about two Prime Ministers.

Shri Jawaharlal Nehru: The mere fact that all these provisions that we have been considering whether they are emergency provisions, whether it is the President's special powers, whether this is Parliaments powers in a certain domain or whether the Supreme Court comes in, surely indicates that it does not require any other answer as to where a certain measure of sovereignty lies. I am being rash—I am talking about the Constitution and all legal matters, but obviously in a federal Constitution, sovereignty is divided between a State and the Federal centre. In a moment of crisis, it may vest with the Federation or in the Centre. It is a different matter. I see that the Law Minister apparently does not agree with this. I am not quite sure, but anyhow whatever it is, it is a small matter. In a Federation it is an old

argument, whether it is divided or not. Take your own Constitution.

There are parts of the Constitution, List III or whatever the list may be, which is within the power of the States completely.

Shri Gadgil (Poona Central): In List II we cannot claim anything.

Shri Jawaharlal Nehru: I know there is a certain List, whatever it is: it is the State List. List I is the Union List. List III is the Concurrent List. So that there is a sphere of State sovereignty which may be upset in the final analysis, which may be put an end to. In that sense I may say that the Centre is sovereign. Federations may differ about this and there is a tendency for the federal Centre to become stronger all over the world. Therefore, the question—the Constituent Assembly of Kashmir, if I may say so, in one respect can certainly be termed sovereign—not in law, I am not talking about law,—just as, if I may say so, I started with this presumption that it is for the people of Kashmir to decide finally about their own future. We will not compel them. In that sense, the people of Kashmir are sovereign to decide their future—whether they are with us or not. They are not sovereign in the sense of accepting the Constitution and breaking it, in the sense of coming into partnership with us in our Constitution and accepting that part over which we are sovereign and then trying to get out of it. But they are sovereign in that sense that they may accept the whole or not at all, or they may come to an agreement with us about other matters.

Now, there is one thing, if I may say, which I was rather distressed to hear. The hon. Dr. Mookerjee referred in rather contemptuous terms to our Governors, as dismissed and rejected people.

Shri S. P. Mookerjee: No.

Shri Jawaharlal Nehru: These were the hon. Member's words.

And a short while ago, on another occasion, an hon. Member opposite, another hon. Member, referred to one whom I think I can say with a great deal of assurance, all of us have honoured and respected very greatly, a lady—he referred to her in terms of great disrespect.

Dr. S. P. Mookerjee: I did not.

Shri Jawaharlal Nehru: The hon. Member did not refer to her, but another Member. She is not now a Member of this House. She is a Member of the Planning Commission, and she was referred to in terms which did not affect her, which I am sure, nor us, but which did a certain amount of discredit to the hon. Member who said that, as if she was a person who was being provided with jobs, as if nepotism was being shown to those who had been defeated in the elections. I submit that this kind of thing is wholly and totally unbecoming and improper, and especially in the case of people who are not here, who cannot say anything to defend themselves.

Now, I have taken a lot of time of this House. I am sorry for it. In a few days time my colleague, Mr. Gopaldaswamy Ayyangar will be going from here to Geneva. I will not be very truthful if I say that I expect great things to happen at Geneva, but we have to carry on with this business, with the rough and the smooth of it and not run away from it. Well, our good wishes go with him, but, above all, our good wishes should go to the people of Jammu and Kashmir State who have become the plaything of international politics, and even our debates.

Mr. Deputy-Speaker: Out of all these amendments.....

Shri Raghunath Singh: I withdraw my amendment No. 6.

Mr. Deputy-Speaker: Order, order. I shall put these amendments. I will select one of these and place it before the House. If it is a comprehensive amendment and if it is carried, the others will fall through. So, I will put Amendment No. 16 standing in the name of Sardar Amar Singh Saigal.

The question is:

That at the end of the motion, the following be added, namely:—

“and having considered the same, this House approves all the steps taken so far in the matter”.

The motion was adopted.

Mr. Deputy-Speaker: All the other amendments are barred.

Dr. S. P. Mookerjee: They drop out automatically.

Mr. Deputy-Speaker: Yes, that is what I said. They are barred.

The House then adjourned till Nine of the Clock on Friday, the 8th of August, 1952.