

Legal Documents on Jammu and Kashmir

Jammu Kashmir Study Center

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Jammu Kashmir Study Center
Pravasi Bhawan, 3rd Floor
50, Pt. Deendayal Upadhyay Marg,
New Delhi-110002

Tel. : 011-2321 3039
Email : jkscdel@gmail.com
Website : www.jkstudycentre.org

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FOREWORD TO THE SECOND EDITION

It gives me immense pleasure to present the second edition of this book. The first edition was received with interest and admiration by scholars and general leaders alike. The approach of presenting the documents, as they are, was found to be convenient and handy. It brought together the most relevant and fundamental documents necessary to understand the issues surrounding the State of Jammu and Kashmir. The commendable credulity was its dispassionate and impartial approach in simply presenting the documents as they are, without any commentary. The effort was aimed at ensuring that the readers can form independent and unadulterated view. I feel that the exercise was successful in the first phase. The issues of Jammu and Kashmir have become points of debate and deliberations at various forums. It is the warm reception the first edition received has forced us, with pleasure, to bring the second edition in barely after a year from the first edition.

This edition too is committed to the dispassionate presentation of bare facts, emerging from the legal documents. We thought it opportune to add some more material at the occasion of the second edition, namely: Treaty between the British Government and the State of Lahore, 1846; The Constitution (Application to Jammu and Kashmir) Orders, 1950, 1952, 1954, 1956, 1958, 1959, 1960, 1961, 1963, 1964 and 1965. The structure otherwise remains the same.

The questions arising from the accession of the State of Jammu and Kashmir and other aspects have reached center stage of the national debate. We hope that the exchange of ideas continues and all commit to the sterile factual manifestations that flow from the present documents - for the eyes of an independent critique.

In the preface to the first edition, I have set out the background

and objectives of the Study Centre. Those who have had access to the first edition or our other publications would be aware of our work, but for those who are new can refer to that preface. We wish to remain accessible to scholars and general readers and would encourage responses on this and other publications. You may visit our website www.jammukashmirnow.org.

Aniruddha Rajput
Director, Jammu Kashmir Study Center

FOREWORD

Jammu and Kashmir, truly speaking is not a problem or a controversy. The real problem is the misinterpretation, misinformation and malicious propagandist writing, devoid and depraved of facts and reality. It has lead to confusion and invented controversies. The votaries of the so-called separates, conveniently ignore the truths born out from the legal documents, or distort them to suit their viewpoint and even indulge in unethically picking and choosing from portions of those documents, to paint a convenient picture. Needless to say, this all is out of context and potent for pitfalls for an independent critique and assessment.

The aim of this book is to present the basic and most important legal documents relating to the State of Jammu and Kashmir as they stand, untainted by convenient and propagandist interpretations. They simply present the picture as it exists. This book is what the title presents itself to be and nothing else. This book is a collection of the legal documents, which may also be referred to as primary material. These are the documents on the basis of which the position of the State of Jammu and Kashmir in the Union of India has progressed. These documents are not speeches and ideological interpretations on the questions relating to Jammu Kashmir. These documents possess a legal and binding force. They are uncontroverted and free from the subjugation of any conspiracy theories.

The present collection is limited to the basic and important documents, necessary understand the discourse on Jammu Kashmir, the legal aspects and apparent niceties. A neutral reader can look at them and form views and impressions, untainted by overburdening secondary opinions. These documents fall broadly into four categories. The first set of documents relates to the process of integration of Jammu and Kashmir State into India and the instrument of accession, an unconditional document, completely integrating the State in India. The second part contains documents relating to the

background of and relating to Article 370. They reflect the intention of the makers of the Constitution to keep it only as a temporary and transitional provision. The third part contains the documents showing the process and outcome of India's complaint to the Security Council of the United Nations Organisation (UNO) against illegal aggression of Pakistan, contrary to international law. The documents show that Pakistan is under an obligation to vacate its illegal occupation of the parts of Jammu and Kashmir, however, Pakistan continues to breach international law. The last part contains documents that show the perspective of Pakistan and China towards the parts of Jammu and Kashmir occupied by Pakistan. They acknowledge that it is not a part of Pakistan.

It would be pertinent to write a few words about the Jammu Kashmir Study Center as well. It is a think tank aimed at generating and contributing to the debate on the true status of the State of Jammu and Kashmir and the nature of Article 370. The subject of Jammu and Kashmir in general and Article 370 in particular, is a matter dear to the heart of every Indian. It does not have any political or ideological ties with any outfit. It is a neutral and independent critical body – conglomerate of intellectuals presenting the facts as they are. At times there is a tendency to get carried, on either side of the divide, based on ideological inclinations. The aim of the Study Center is to discredit the prejudices and bring the debate on these issues to the front of the national discourse. This book is a step in that direction. Alongside, we also expect, people from all over country, read, deliberate and participate in this debate. The Study Centre eagerly invites them all to come forward and join in the process.

Also for a curious researcher, further documents are available on our website – www.jammukashmirnow.org.

Aniruddha Rajput
Director, Jammu Kashmir Study Center

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PART-I

Integration of Jammu and Kashmir State

Treaty between Tibet and Ladakh, 1842

Tibetan Version of Treaty in the Possession of the
Government of Jammu and Kashmir

As on this auspicious day, the 2nd of Assuj, Sambhat 1899 [16th or 17th September AD 1842] we the officers of Lhasa Government Kalon of Soka and Bakshi Shajpuh, Commander of the forces, and two officers on behalf of the most resplendent Sri Khalsaji Sahib, the asylum of the world, King Sher Singhji and Sri Maharaj Sahib Raja-i-Rajagan Raja Sahib Bahadur Raja Gulab Singhji i.e., the Mukhtar-ud-Daula Diwan Hari chand and the asylum of vizirs, Vizir Ratnun, in a meeting called together for the promotion of peace and unity, and by professions and vows of friendship, unity and sincerity of heart and by taking oaths like those of Kunjak Sahib, have arranged and agreed that relations of peace, friendship, and unity between Sri Khalsaji and Sri Maharaj Sahib Bahadur Raja Gulab Singhji and the Emperor of China and the Lama Guru of Lhasa will henceforward remain firmly established for ever; and we declare in the presence of the Kunjak Sahib that on no account whatsoever will there be any deviation, difference or departure [from this agreement]. We shall neither at present nor in future have anything to do or interfere at all with the boundaries of Ladakh and its surroundings as fixed from ancient times and will allow the annual export of wool, shawls and tea by way of Ladakh according to the old established custom.

Should any of the opponents of Sri Sarkar Khalsaji and Sri Raja Sahib Bahadur at any time enter our territories, we shall not pay any heed to his words or allow him to remain in our

country.

We shall offer no hindrance to traders of Ladakh who visit our territories. We shall not even to the extent of a hair's breadth act in contravention of the terms that we have agreed to above regarding firm friendship, unity, the fixed boundaries of Ladakh and the keeping open of the route for wool, shawls and tea. We call Kunjak Sahib, Kairi, Lassi, Zhoh Mahan, and Khushal Choh as Witnesses to this treaty.

The treaty was concluded on the 2nd of the month of Assuj, Samat 1899 (16 or 17 September 1842).

Treaty between the British Government and the State of Lahore, concluded at Lahore on March 9, 1846

"Whereas the treaty of amity and concord, which was concluded between the British Government and the late Maharajah Ranjit Singh, the ruler of Lahore, in 1809, was broken by the unprovoked aggression, on the British Provinces, of the Sikh army, in December last; and whereas, on that occasion, by the proclamation, dated 13th December, the territories then in the occupation of the Maharajah of Lahore, on the left or British bank of the river Sutlej, were confiscated and annexed to the British Provinces; and since that time hostile operations have been prosecuted by the two Governments; the one against the other, which have resulted in the occupation of Lahore by the British troops; And whereas it has been determined that, upon certain conditions, peace shall be re-established between the two Governments, the following treaty of peace between the Honourable English East India Company and Maharajah Dalip Singh Bahadoor, and his children, heirs and successors, has been concluded on the part of the Honourable Company by Frederick Currie, Esquire, and Brevet-Major Henry Montgomery Lawrence, by virtue of full powers to that effect vested in them by the Right Honourable Sir Henry Hardinge, G.C.B., one of her Britannic Majesty's Most Honourable Privy Council, Governor-General, appointed by the Honourable Company to direct and control all their affairs in the East Indies, and on the part of His Highness Maharajah Dalip Singh by Bhai Ram Singh, Rajah Lal Singh, Sardar Tej

Singh, Sardar Chatter Singh Attareewalla, Sardar Runjore Singh Majeethia, Dewan Deena Nath and Fakir Nur-ud-din, vested with full powers and authority on the part of His Highness.

Article 1

There shall be perpetual peace and friendship between the British Government on the one part and Maharajah Dalip Singh, his heirs and successors on the other.

Article 2

The Maharajah of Lahore renounces for himself, his heirs and successors, all claim to, or connection with, the territories lying to the south of the River Sutlej, and engages never to have any concern with those territories or the inhabitants thereof.

Article 3

The Maharajah cedes to the Honourable Company, in perpetual sovereignty, all his forts, territories and rights in the Doab and country, hill and plain, situated between the Rivers Beas and Sutlej.

Article 4

The British Government having demanded from the Lahore State, an indemnification for the expenses of the war, in addition to the cession of territory described in Article 3, payment of one and a half Crore of Rupees, and the Lahore Government being unable to pay the whole of this sum at this time, or to give security satisfactory to the British Government for its eventual payment, the Maharajah cedes to the Honourable Company, in perpetual sovereignty, as equivalent for one crore of Rupees, all his forts, territories, rights and interests in the hill countries, which are situated between the Rivers Beas and Indus, including the Provinces of Kashmir and Hazara.

Article 5

The Maharajah will pay to the British Government the sum of 50 lakhs of Rupees on or before the ratification of this Treaty.

Article 6

The Maharajah engages to disband the mutinous troops of the Lahore Army, taking from them their arms and His Highness agrees to reorganize the Regular or Ain Regiments of Infantry, upon the system, and according to the Regulations as to pay and allowances, observed in the time of the late Maharajah Ranjit Singh. The Maharajah further engages to pay up all arrears to the soldiers that are discharged, under the provisions of this Article.

Article 7

The Regular Army of the Lahore State shall henceforth be limited to 25 Battalions of Infantry, consisting of 800 bayonets each with twelve thousand Cavalry - this number at no time to be exceeded without the concurrence of the British Government. Should it be necessary at any time - for any special cause, that this force should be increased, the cause shall be fully explained to the British Government, and when the special necessity shall have passed, the regular troops shall be again reduced to the standard specified in the former Clause of this Article.

Article 8

The Maharajah will surrender to the British Government all the guns, thirty-six in number, which have been pointed against the British troops and which, having been placed on the right Bank of the River Sutlej, were not captured at the battle of Subraon.

Article 9

The control of the Rivers Beas and Sutlej, with the

continuations of the latter river, commonly called the Gharrah and the Panjnad, to the confluence of the Indus at Mithankot and the control of the Indus from Mithankot to the borders of Beloochistan, shall, in respect to tolls and ferries, rest with the British Government. The provisions of this Article shall not interfere with the passage of boats belonging to the Lahore Government on the said rivers, for the purpose of traffic or the conveyance of passengers up and down their course. Regarding the ferries between the countries respectively, at the several ghats of the said rivers, it is agreed that the British Government, after defraying all the expenses of management and establishments, shall account to the Lahore Government for one-half of the net profits of the ferry collections. The provisions of this Article have no reference to the ferries on that part of the River Sutlej which forms the boundary of Bhawalpur and Lahore respectively.

Article 10

If the British Government should, at any time, desire to pass troops through the territories of His Highness the Maharajah, for the protection of the British territories, or those of their Allies, the British troops shall, on such special occasion, due notice being given, be allowed to pass through the Lahore territories. In such case the officers of the Lahore State will afford facilities in providing supplies and boats for the passage of rivers, and the British Government will pay the full price of all such provisions and boats, and will make fair compensation for all private property that may be damaged. The British Government will, moreover, observe all due consideration to the religious feelings of the inhabitants of those tracts through which the army may pass.

Article 11

The Maharajah engages never to take or to retain in his service any British subject, nor the subject of any European

or American State, without the consent of the British Government.

Article 12

In consideration of the services rendered by Raja Gulab Singh of Jammu, to the Lahore State, towards procuring the restoration of the relations of amity between the Lahore and British Governments, the Maharajah hereby agrees to recognize the Independent sovereignty of Raja Gulab Singh, in such territories and districts in the hills as may be made over to the said Raja Gulab Singh, by separate Agreement between himself and the British Government, with the dependencies thereof, which may have been in the Raja's possession since the time of the late Maharajah Kharak Singh: and the British Government, in consideration of the good conduct of Raja Gulab Singh, also agrees to recognize his independence in such territories, and to admit him to the privileges of a separate Treaty with the British Government.

Article 13

In the event of any dispute or difference arising between the Lahore State and Raja Gulab Singh, the same shall be referred to the arbitration of the British Government; and by its decision the Maharajah engages to abide.

Article 14

The limits of the Lahore territories shall not be, at any time, changed without the concurrence of the British Government.

Article 15

The British Government will not exercise any interference in the internal administration of the Lahore State; but in all cases or questions which may be referred to the British Government, the Governor-General will give the aid of his advice and good offices for the furtherance of the interests of the Lahore Government.

Article 16

The subjects of either State shall, on visiting the territories of the other, be on the footing of the subjects of the most favoured nation.

This Treaty consisting of sixteen articles, has been this day settled by Frederick Currie, Esq; and Brevet-Major Henry Montgomery Lawrence, acting under the directions of the Right Honourable Sir Henry Hardinge, G.C.B., Governor-General, on the part of the British Government, and by Bhai Ram Singh, Raja Lal Singh, Sardar Tej Singh, Sardar Chattar Singh Attareewalla, Sardar Runjore Singh Majeethia, Dewan Deena Nath, and Fakir Nur-ud-din, on the part of the Maharajah Dhuleep Singh; and the said Treaty has been this day ratified by the seal of the Right Honourable Sir Henry Hardinge, G.C.B., Governor-General, and by that of His Highness Maharajah Dalip Singh.

Done at Lahore, this ninth day of March, in year of Our Lord 1846; corresponding with the, tenth day of Rabbi-ul-awal, 1262 Hijri, and ratified on the same day.

(Sd.) **H. Hardinge (L.S.)**

(Sd.) **Maharajah Dalip Singh (L.S.)**

Bhai Ram Singh (L.S.)

Raja Lal Singh (L.S.)

Sardar Tej Singh (L.S.)

Sardar Chattar Singh Attareewalla (L.S.)

Sardar Ranjore Singh Majeethia (L.S.)

Dewan Deena Nath (L.S.)

Fakir Nur-ud-din (L.S.)"

**Articles 5, 6, and 7 of supplementary
Articles of March 11, 1846, to the First
Treaty of Lahore, Referred to in Article 8
of the Treaty of Amritsar**

Article 5. The British Government to respect the bonafide rights of those jagirdars within the territories ceded by Article 3 and 4 of the Treaty of Lahore dated 9th instant, who were attached to the families to the late Maharaja Ranjit Singh, Kharak Singh and Sher Singh; and the British Government will maintain those jagirdars in their bonafide possession during their lives.

Article 6. The Lahore Government shall receive the assistance of the British local authorities in recovering the arrears of revenue justly due to the Lahore Government from their Kardars and managers in the territories ceded by the provisions of Article 3 and 4 of the treaty of Lahore, to the close of the Kharif harvest of the current year viz., 1902 of the Sambat Bikramajit.

Article 7. The Lahore Government shall be at liberty to remove from the forts in the territories specified in the foregoing article, all treasure and state property with the exception of guns: Should, however, the British Government desire to retain any part of the same property, they shall be at liberty to do so; paying for the same at a fair valuation ; and the British officers shall give their assistance to the Lahore Government may not desire to retain.

Treaty between the British Government and Maharajah Gulab Singh concluded at Amritsar, March 16, 1846

The treaty between the British Government on the one part and Maharajah Gulab Singh of Jammu, on the other concluded on the part of the British Government by Frederick Currie, Esq; and Brevet-Major Henry Montgomery Lawrence, acting under the orders of the Rt. Honourable Sir Henry Hardinge, G.C.B., one of her Britannic Majesty's most Honorable Privy Council, Governor-General, appointed by the Honourable company to direct and control all their affairs in East Indies, and by Maharajah Gulab Singh in person.

Article 1

The British Government transfers and makes over for ever in independent possession to Maharajah Gulab Singh and the heirs male of his body all the hilly or mountainous country with its dependencies situated to the eastward of the River Indus and the westward of the River Ravi including Chamba and excluding Lahul, being part of the territories ceded to the British Government by the Lahore State according to the provisions of Article IV of the Treaty of Lahore, dated 9th March, 1846.

Article 2

The eastern boundary of the tract transferred by the foregoing article to Maharajah Gulab Singh shall be laid down by the Commissioners appointed by the British

Government and Maharajah Gulab Singh respectively for that purpose and shall be defined in a separate engagement after survey.

Article 3

In consideration of the transfer made to him and his heirs by the provisions of the foregoing articles, Maharajah Gulab Singh will pay to the British Government the sum of seventy five lakhs of rupees (Nanak Shahi), fifty lakhs to be paid on the ratification of this treaty and twenty five lakhs on or before the 1st October of the current year, A.D., 1846.

Article 4

The limits of territories of Maharajah Gulab Singh shall not be at any time changed without the concurrence of the British Government.

Article 5

Maharajah Gulab Singh will refer to the arbitration of the British Government any disputes or question that may arise between himself and the Government of Lahore or any other neighboring State, and will abide by the decision of the British Government.

Article 6

Maharajah Gulab Singh engages for himself and heirs to join, with the whole of his Military Forces, the British troops when employed within the hills or in the territories adjoining his possessions.

Article 7

Maharajah Gulab Singh engages never to take or retain in his service any British subject nor the subject of any European or American State without the consent of the British Government.

Article 8

Maharajah Gulab Singh engages to respect in regard to the territory transferred to him, the provisions of Articles V, VI and VII of the separate Engagement between the British Government and the Lahore Durbar, dated 11th March, 1846.

Article 9

The British Government will give its aid to Maharajah Gulab Singh in protecting his territories from external enemies.

Article 10

Maharajah Gulab Singh acknowledges the supremacy of the British Government and will, in token of such supremacy present annually to the British Government one horse, twelve perfect shawl goats of approved breed (six male and six female) and three pairs of Kashmiri shawls.

This Treaty, consisting of ten articles has been this day settled by Frederick Currie, Esq. and Brever-Major Henry Montgomery Lawrence, acting under directions of the Right Hon. Sir Henry Hardinge, G.C.B., on the part of the British Government and by Maharajah Gulab Singh in person, and the said Treaty has been this day ratified by the seal of the Right Honourable Sir Henry Hardinge, G.C.B.. (Done at Amritsar the sixteenth day of March, in the year of our Lord one thousand eight hundred and forty-six, corresponding with the seventeenth day of Rubee-ul-Awal (1262 Hijri).

(Signed) **H. Hardinge (Seal)**

(Signed) **F. Currie**

(Signed) **H.M. Lawrence**

Cabinet Mission's Memorandum

12 May, 1946.

Memorandum on States' Treaties and Paramountcy presented by the Cabinet Mission to His Highness the Chancellor of the Chamber of Princes on 12 May, 1946.

1. Prior to the recent statement of the British Prime Minister in the House of Commons an assurance was given to the Princes that there was no intention on the part of the Crown to initiate any change in their relationship with the Crown or the rights guaranteed by their treaties and engagements without their consent. It was at the same time stated that the Princes' consent to any changes which might emerge as a result of negotiations would not unreasonably be withheld. The Chamber of Princes has since confirmed that the Indian States fully share the general desire in the country for the immediate attainment by India of her full stature. His Majesty's Government have now declared that if the Succession Government or Governments in British India desire independence, no obstacle would be placed in their way. The effect of these announcements is that all those concerned with the future of India wish to attain a position of independence within or without the British Commonwealth. The Delegation have come here to assist in resolving the difficulties which stand in the way of India fulfilling this wish.
2. During the interim period, which must elapse before the coming into operation of a new Constitutional structure under which British India will be independent or fully self-governing, paramountcy will remain in operation. But the

British Government could not and will not in any circumstances transfer paramountcy to an Indian Government.

3. In the meanwhile, the Indian States are in a position to play an important part in the formulation of the new Constitutional structure for India, and His Majesty's Government have been informed by the Indian States that they desire, in their own interests and in the interests of India as a whole, both to make their contribution to the framing of the structure, and to take their due place in it when it is completed. In order to facilitate this they will doubtless strengthen their position by doing everything possible to ensure that their administrations conform to the highest standard.

Where adequate standards cannot be achieved within the existing resources of the State they will no doubt arrange in suitable cases to form or join administrative units large enough to enable them to be fitted into the constitutional structure. It will also strengthen the position of States during this formulative period if the various Governments which have not already done so take active steps to place themselves in close and constant touch with public opinion in their State by means of representative institutions.

4. During the interim period it will be necessary for the States to conduct negotiations with British India in regard to the future regulation of matters of common concern, especially in the economic and financial field. Such negotiations, which will be necessary whether the States desire to participate in the new Indian Constitutional structure or not, will occupy a considerable period of time, and since some of these negotiations may well be

incomplete when the new structure comes into being, it will, in order to avoid administrative difficulties, be necessary to arrive at an understanding between the States and those likely to control the succession Government or Governments that for a period of time the then existing arrangements as to the matters of common concern should continue until the new agreements are completed. In this matter, the British Government and the Crown Representative will lend such assistance as they can should it be so desired.

5. When a new fully self-governing or independent Government or Governments come into being in British India, His Majesty's Government's influence with these Governments will not be such as to enable them to carry out the obligations of paramountcy. Moreover, they cannot contemplate that British troops would be retained in India for this purpose. Thus, as a logical sequence and in view of the desires expressed to them on behalf of the Indian States, His Majesty's Government will cease to exercise the powers of paramountcy.

This means that the rights of the States which flow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the paramount power will return to the States. Political arrangements between the States on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it or them.

Text of Resolution, Congress Working Committee on States 15th June, 1947

The Committee does not agree with the theory of paramountcy as enunciated and interpreted by the British Government; but even if that is accepted, the consequences that flow from the lapse of paramountcy are limited in extent. The privileges and obligations as well as the subsisting rights as between the States and the Government of India cannot be adversely affected by the lapse of paramountcy. These rights and obligations have to be considered separately and renewed or changed by mutual agreement. The relationship between the Government of India and the States would not be exhausted by lapse of Paramountcy. The lapse does not lead to the independence of the States.

Crown Representative Lord Louis Mountbatten's Address to A Special Full Meeting of The Chamber of Princes on July 25, 1947

It is a Great pleasure and a great privilege for me to address so many Rulers, Dewans and Representatives of the States of India in this historic Chamber of Princes. It is the first and last occasion that I have the privilege of addressing you as crown Representative.

I would like to begin by giving you a very brief history of the negotiations I had conducted since I have been out here and the line that I have taken up about the States.

There were two distinct problems that faced me. The first was how to transfer power to British India and the Second how to fit Indian States into the picture in a manner which would be fair and just to all concerned.

I dealt first with the problem of British India, because you will realize that until that problem was solved it was quite useless to try to start on a solution of the problem of the States. So I addressed my mind to the former.

There had been universal acceptance among the States of the Cabinet Mission's Memorandum of 12th May and when the political parties accepted the Statement of 3rd June they fully realized and accepted that withdrawal of Paramountcy would enable the States to regain complete sovereignty. That gave me a starting point from which to try and deal fairly with the States.

But before I got down to dealing with the States there was one other thing that I clearly had to do. I had to address myself to the problem of the mechanics of partition- a plan against my personal desires. As you all know, It took three years to separate Burma from India, in spite of the fact (as I can testify , as also His Highness of Bundi and other who fought in Burma) that there are no roads running between Indian and Burma. Nevertheless, it took three years to arrange that partition. It took two years to separate the province of Sind from Bombay. It took two years to separate the province of Orrissa from Bihar. Gentlemen, we decided that in less than two and a half months we shall have to go through the partitioning of one of the biggest countries in the world with 400 million in habitants. There was a reason for the speed. I was quite certain that while the British overlordship remained no satisfactory conclusions could be reached psychologically between the parties. So once we got the two Governments set up and separated they would be able to try and finish off the details in an atmosphere of goodwill.

Now, the Indian Independence Act releases all the States from all their obligations to the crown. The States will have complete freedom- technically and legally they become independent. Presently I will discuss the degree of Independence which we ourselves feel is best in the interests of your own states. But there has grown up during the period of British Administration, owing to the fact that the crown Representative and the Viceroy are one and the same person, a system of coordinated administration on all matters of common concern which meant that the sub-continent of India acted as an economic entity. That link is now to be broken. If nothing can be put in its place , only chaos can result, and that chaos , I submit will hurt the States first- the bigger the States the less the hurt and longer it will take to feel

it – but even the biggest of the States will feel the hurt just the same as any small state.

The first step was to set up some machinery by which it was possible to put the two future Governments of India- the Dominions of India and Pakistan—into direct touch with the States. So I conceived the scheme of setting up two states Departments within the future Governments. Please note that these States are not the successors of Political Departments. They have been set up simultaneously and side by side. While the Political department exercised functions relating to paramountcy on behalf of the Crown Representative, the States Departments are to take over those subjects gradually which have nothing to do with paramountcy but which will be concerned with relations with neighboring States and also provide the Machinery to negotiate in such matters. In India the States Department is under admirable guidance of Sardar Vallabhbhai Patel with my own reforms Commissioner, Mr. VP Menon as Secretary. In Pakistan the Department is under Sardar Abdur Rab Nishtar with Mr. Ikramullah as the Secretary.

It was necessary to set up two States Departments, one in each Government, because States are theoretically free to link their future with whichever dominion they may care. But when I say that they are at liberty to link up with either of the Dominions, may I point that there are certain geographical compulsions which cannot be evaded. Out of something like 565 states the vast majority irretrievably linked geographically with the dominion of India. The problem therefore is of far greater magnitude with the dominion of India than it is with Pakistan. In the case of Pakistan the States although important, are not so numerous, and Mr. Jinnah, the future Governor-general of Pakistan, is prepared to negotiate the case of each State separately and individually. But in the case

of India, where the overwhelming majority of the States are involved, clearly separate negotiation with each State is out of the question.

The step that I took was to suggest that in the Bill before Parliament- the Indian Independence Act- a clause should be put in which would enable certain essential agreements to continue until renounced by either side. That was only done to ensure that there should be some continuity if in the short time available it was not possible to get the agreement through with every State representative. It does not replace the need for Standstill agreements; it gives a very slight breathing space.

Now, I think it is no exaggeration to say that most Rulers and Dewans were apprehensive as to what their future would be when Paramountcy lapsed. At one time it appeared that unless they joined the Constituent Assembly and accepted the constitution when it was framed, they would be outside the organization and left in a position which, I submit, no state could view with equanimity –left out and having no satisfactory relations or contacts with either Dominion Government. You can imagine how relieved I was , and I am sure you will yourselves have been equally relieved when Sardar Vallabh bhai Patel on taking over the States Department made , if I may say so, a most Statesman like Statement of what he considered were the essentials towards agreement between the States and the Dominion of India.

Let us turn for one moment to the Cabinet Mission Plan of 16 May 1946. In this Plan the proposal was that the States should surrender to Central Governments three subjects- Defence, External Affairs and Communications. That was a plan which to the best of my belief, every Ruler and every State accepted as reasonable, fair and Just. I talked with so many Rulers and everyone felt that Defence was a matter that

a State could not conduct itself. I am not talking of internal security but of defence against external aggression. I submit that if you do not link up with one or other of the Dominions, you may be cut off from any source of supplies of up-to-date arms or weapons.

“External Affairs” is inextricably linked up with Defence. “External Affairs” is something again which is outside the boundaries of India in which not even the greatest state can operate effectively. You can hardly want to go to the expense of having ambassadors or ministers or consuls in all foreign countries; surely you want to be able to use those of India or Pakistan. Once more I suggest that “External Affairs” is something that you have not dealt with since the formation of East India Company. It would be difficult to operate and will also be a source of embarrassment for you to have to take it up and it can only be managed by those who manage the Defence of the Country. I submit that if you take it up it will be a liability and not an asset.

The third subject is communications. “Communications” is really a means of maintaining the life-blood of the whole suo-continent. I imagine everybody agrees that the life of the country has got to go on. The continuity of communications is already has got to go on. The continuity of communications is already provided for to a certain extent in the Indian Independence Act;

Therefore, I am sure you will agree that these three subjects have got to be handled for you for your convenience and advantage by a larger organization. This seems so obvious I was at loss to understand why some Rulers were reluctant to accept the position. One explanation probably was that some of you were apprehensive that the Central Government would attempt to impose a financial liability on the States or encroach in other ways on their sovereignty. If I am right in

this assumption, at any rate so far as some Princes are concerned, I think I can dispel their apprehensions and misgivings. The Draft Instrument of Accession which I have caused to be circulated as a basis for discussion (and not for publication) to the representatives of the States provides that the States accede to the appropriate Dominion on the three subjects only without any financial liability. Further, that Instrument contains an explicit provision that in no other matters has the Central Government any authority to encroach of the internal autonomy or the sovereignty of the States. This would, in my view, be a tremendous achievement for the States. But I must make it clear that I have still to persuade the Government of India to accept it. If all of you will co-operate with me and are ready to accede, I am confident that I can succeed in my efforts. Remember that the day of the transfer of power is very close at hand and , if you are prepared to come, you must come before 15 August . I have no doubt that this is in the best interests of the States, and every wise Ruler and wise Government would desire to link up with the Great Dominion of India on a basis which leaves you great internal autonomy and which at the same time gets rid of your worries and cares over External Affairs, Defence and Communications.

The whole country is passing through a critical period. I am not asking any State to make any intolerable sacrifice of either its internal autonomy or independence. My scheme leaves you with all the practical independence that you can possibly use and makes you free of all those subjects which you cannot possibly manage on your own. You cannot run away from the Dominion Government which is your neighbor any more than you can run away from the subjects for whose welfare you are responsible. Whatever may be your decision , I hope you feel that I have at least done my duty by the States

Extracts from the Indian Independence Act 1947.

7. — (1) As from the appointed day:-

- (a) His Majesty's Government in the United Kingdom has no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India.
- (b) The suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date with towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise; and
- (c) There also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any persons having authority in the tribal areas, any obligations of His Majesty existing at that date to any such persons or with respect to the tribal areas, and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in or in relation to the tribal areas by treaty, grant, usage, sufferance or otherwise:

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this subsection, effect shall, as nearly

as may be continue to be given to the provisions of any such agreement as is therein referred to which relate to customs transit and communications, posts and telegraph, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.

- (2) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words "Indian Imperator" and the words "Emperor of India" and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.

Extracts from the Government of India Act 1935

(As in Force on August 15, 1947)

The following are extracts from the Government of India Act, 1935 as passed by Parliament of United Kingdom, as amended:

“5. ESTABLISHMENT OF THE DOMINION:

(1) The Dominion of India established by the Indian Independence Act, 1947, shall as from the fifteenth day of August, 1947 be a Union comprising -

- (a) The provinces hereinafter called Governor's provinces,
- (b) The Provinces hereinafter called Chief Commissioners' provinces,
- (c) the Indian states acceding to the Dominion in the manner hereinafter provided, and
- (d) any other areas that may with the consent of the Dominion be included in the Dominion.

(2). the said dominion of India is hereinafter in this Act referred to as “the Dominion” and the said fifteenth day of August is hereinafter in this Act referred to as “ the date of the establishment of the Dominion”

“6 ACCESSIONS OF INDIAN STATES:

(1). An Indian State shall be deemed to have acceded to the Dominion if the Governor General has signified his acceptance of an Instrument of accession executed by the Ruler thereof whereby the Ruler on behalf of the State:

- (a). Declares that he accedes to the Dominion with the intent that the Governor- General, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall by virtue of his Instrument of Accession, but subject to always to the terms thereof, and for the purposes of the Dominion, exercise in relation to the State such functions as may be vested in them by order under this Act; and
- (b). assumes the obligations of ensuring that due effect is given within the State to the provisions of this Act so far as they are applicable therein by virtue of Instrument of Accession.
- (2). An Instrument of Accession shall specify the matters which the Ruler accepts as matters with respect to which the Dominion Legislature may make laws for the State, and the limitations, if any, to which the power of the Dominion Legislature to make laws for the State, and the exercise of the executive authority of the Dominion in the State, are respectively to be subject.
- (3). A Ruler may, by a supplementary Instrument executed by him and accepted by the Governor-General, vary the Instrument of Accession of his State by extending the functions which by virtue of that Instrument are exercisable by any Dominion Authority in relation to his State
- (4). References in this Act to the Ruler of a State include references to any persons for the time being exercising the powers of the Ruler of the State whether by reason of the Ruler's minority or for any other reason.
- (5). In this Act a State which has acceded to the Dominion is referred to as a Acceding State, and the Instrument by virtue of which a State has so acceded, construed together with any supplementary Instrument executed under this section, is referred to as the Instrument of Accession of that State.

(6). As soon as may be after any Instrument of Accession or supplementary Instrument has been accepted by the Governor-General under this section, copies of the Instrument and of the Governor-General Acceptance thereof shall be laid before the Dominion Legislature, and all courts shall take judicial notice of every such Instrument and Acceptance.

Instrument of Accession of Jammu and Kashmir State

26 October, 1947

Whereas, the Indian Independence Act, 1947, provides that as from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as INDIA, and that the Government of India Act 1935 shall with such omissions, additions, adaptations and modifications as the Governor General may by order specify, be applicable to the Dominion of India.

And whereas the Government of India Act, 1935, as so adapted by the Governor General, provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof.

Now, therefore, I Shriman Inder Mahinder Rajrajeshwar Maharajadhiraj Shri Hari Singhji, Jammu & Kashmir Naresh Tatha Tibbet adi Deshadhipati, Ruler of Jammu & Kashmir State, in the exercise of my Sovereignty in and over my said State do hereby execute this my Instrument of Accession and

1. I hereby declare that I accede to the Dominion of India with the intent that the Governor General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall by virtue of this my Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State of Jammu & Kashmir (hereinafter referred to as “this State”) such functions as may be vested in them

by or under the Government of India Act, 1935, as in force in the Dominion of India, on the 15th day of August 1947, (which Act as so in force is hereafter referred to as “the Act”).

2. I hereby assume the obligation of ensuring that due effect is given to provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.
3. I accept the matters specified in the schedule hereto as the matters with respect to which the Dominion Legislature may make law for this State.
4. I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor General and the Ruler of this State whereby any functions in relation to the administration in this State of any law of the Dominion Legislature shall be exercised by the Ruler of the State, then any such agreement shall be deemed to form part of this instrument and shall be construed and have effect accordingly.
5. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or the Indian Independence Act, 1947, unless such amendment is accepted by me by an Instrument supplementary to this Instrument.
6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorizing the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purpose of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense, or, if the land

belongs to me transfer it to them on such terms as may be agreed or, in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.

7. Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future constitution of India or to fetter my discretion to enter into agreement with the Government of India under any such future constitution.
8. Nothing in this Instrument affects the continuance of my Sovereignty in and over this State, or, save as provided by or under this Instrument, the exercise of any powers, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.
9. I hereby declare that I execute this 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 construed as including a reference to my heirs and successors.

Given under my hand this 26th day of October, nineteen hundred and forty seven.

(Sd.) **Hari Singh**
Maharajadhiraj of Jammu and Kashmir State

Acceptance of Instrument of Accession of Jammu and Kashmir State

I do hereby accept this Instrument of Accession. Dated this twenty seventh day of October, nineteen hundred and forty seven.

(Sd.)**Mountbatten of Burma**
Governor General of India

Extracts from the Constitution of Jammu and Kashmir.

PREAMBLE—

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 us all;

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

IN OUR CONSTITUENT ASSEMBLY This seventeenth
day of November, 1956 do Hereby ADOPT ENACT AND
GIVE TO OURSELVES THIS CONSTITUTION.

PART II

THE STATE

Section - (3) *Relationship of the State with the Union of India.*—
The State of Jammu and Kashmir is and shall be an integral
part of the Union of India.

Section - (4) *Territory of the State.*—The territory of 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.

Section - (5) *Extent of executive and legislative power of the State.*—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.

PART XII

AMENDMENT OF THE CONSTITUTION

Section 147. An amendment of this constitution may be initiated only by the introduction of a Bill for the purpose in the Legislative Assembly, and when the Bill is passed in each House by the majority of not less than two-thirds of the total membership of that House, it shall be presented to the Governor for his assent and, upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that a Bill providing for the abolition of the Legislative Council may be introduced in the Legislative Assembly and passed it by 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:

Provided further that no Bill or amendment seeking to make any change in—

- (a) This section; or
- (b) the provisions of the sections 3 and 5; or
- (c) the provisions of the constitution of India as applicable in relation to the State;

Shall be introduced or moved in either house of the Legislature.

PART-II

Background and Nature of Article 370

Proclamation of Shriman Indar Mahinder Rairajeshwar

**Maharajadhiraj Shri Hari Singh ruler of Jammu &
Kashmir and dependencies**

5 March 1948

In accordance with the traditions of my dynasty I have, from time to time, provided for increasing association of my people with the administration of the State with the object of realising the goal of full Responsible Government at as early a date as possible and in pursuance of that object have, by the Jammu and Kashmir Constitution Act of 1996 (xiv of 1996) established a Constitutional Government with a Council of Ministers, a Legislature with a majority of elected members and an independent Judiciary;

I have noted with gratification and pride the progress so far made and the legitimate desire of my people for the immediate establishment of a fully democratic constitution based on adult franchise with a hereditary Ruler from my dynasty as the Constitutional Head of an Executive responsible to the legislature;

I have already appointed the popular leader of my people Sheikh Mohammad Abdullah as the Head of the Emergency Administration; it is now my desire to replace the Emergency Administration to a Popular Interim Government and to provide for its powers, duties and functions, pending the formation of a fully democratic Constitution.

I accordingly HEREBY ORDIN AS FOLLOWS;

(1) My Council of Ministers shall consist of the Prime

Minister and such other Ministers as may be appointed on the advice of the Prime Minister. I have by Royal Warrant appointed Sheikh Mohammad Abdullah as the Prime Minister with effect from today.

(2) The Prime Minister and other Ministers shall function as a Cabinet and act on the principle of joint responsibility. A Dewan appointed by me shall also be a member of the Cabinet.

(3) I take this opportunity of giving once again a solemn assurance that all sections of my people will have opportunities of service, both civil and military, solely on the basis of their merits and irrespective of creed or community.

(4) My Council of Ministers shall take appropriate steps, as soon as restoration of normal conditions has been completed, to convene a National Assembly based upon adult suffrage, having due regard to the principle that the number of representatives from each voting area should, as far as practicable, be proportionate to the population of that area.

(5) The Constitution to be framed by the National Assembly shall provide adequate safeguards for the minorities and contain appropriate provisions guaranteeing for the freedom of conscience, freedom of speech and freedom of assembly.

(6) The National Assembly shall, as soon as the work of framing the new constitution is completed, submit it through the Council of Ministers for my acceptance.

(7) In conclusion I repeat the hope that the formation of a popular Interim Government and the inauguration, in the near future, of a fully Democratic Constitution will ensure the contentment, happiness and the moral and material advancement of my beloved people.

Proclamation Government Gazette

June, 1949.

Whereas I have decided for reasons of health to leave the State for a temporary period and to entrust to the Yuvaraj Shree Karan Singh Ji Bahadur for that period all my powers and functions in regard to the Government of the State;

Now, therefore, I hereby direct and declare the all powers and functions, whether legislative, executive or judicial which are exercisable by me in relation to the State and its Government, including in particular my right and prerogative of making Laws, of issuing Proclamations, Orders and Ordinances, of remitting, commuting or reducing sentences and of pardoning offenders, shall during the period of my absence from the State be exercisable by Yuvaraj Shree Karan Singh Ji Bahadur.

Sd/- **Hari Singh**
Maharajadhiraj.

Constituent Assembly Debates on Draft Article 306A. (Predecessor of Article 370)

Mr. President : We go to 306A.

It is suggested that we had better begin the Preamble. It may be moved.

Shri T.T. Krishnamachari : It is not necessary to move it. The Preamble may be taken into consideration.

Mr. President: The Preamble is moved. I shall have to take up the various amendments to the Preamble now. I have a large number of amendments – many of them printed in the printed list.

Maulana Hasrat Mohani (United Provinces: Muslim): I understand that you have already decided that the Preamble will be taken up last. How is it that there are some articles remaining undiscussed and you pass to the Preamble?

Mr. President: Not many articles left.

Maulana Hasrat Mohani : Even one article – unless you finish the articles, you cannot take up the Preamble.

Mr. President : Very well, let us take up 306A.

The Honourable Shri Satyanarayan Sinha (Bihar : General): Sir, are you taking up the Preamble ?

Mr. President: No, Maulana hasrat Mohani objects to the Preamble being taken up before all the other articles are finished.

There is one more article of which notice was given and it has been standing over, amendment No. 472 by Mr. Naziruddin Ahmad. And I understand it is the same as another article of which notice was given by Pandit Thakur Das Bhargava.

Pandit Thakur Das Bhargava: Sir, it was held over on the 3rd June, by your order.

Mr. President : Then shall we take it up now? Which of them shall we take up. Mr. Nazirudding Ahmad's or that of Pandit Thakur Das Bhargava?

Pandit Thakur Das Bhargava : Sir, I beg to move that.....

Shri R.K. Sidhva : Sir, there are other articles also of which notice has been given by other Members.

Mr. President : There is no other amendment by the Drafting Committee.

Shri R.K. Sidhva : But there may be other Members who may have amendments besides these two.

Mr. President : Amendments for the addition of new articles?

Shri R.K. Sidhva : Yes,

Mr. President : I do not think they will arise now.

Pandit Thakur Das Bhargava : Sir, I understand Shri Gopalaswami Ayyangar has just come and so I may be allowed to move, after he has done.

Mr. President : There are so many articles of which notice was given and which are dropped now. We have dealt with the whole Constitution from every point of view and we cannot begin now taking up new articles. I know Pandit Thakur Das

Bhargava's amendment was held over, but it has been covered by other amendments.

Pandit Thakur Das Bhargava : It is not covered, Sir.

Mr. President: Very well. We take up article 306A now. Mr. Gopalaswami Ayyangar.

The Honourable Shri N. Gopalaswami Ayyangar : (Madras : General) : Sir, before I read out the motion. I would request your permission, Sir, not to move item 379, but to move item 451 instead.

Sir, I move:

"That with reference to Amendment no.379 of List XV (Second Week), after article 306, the following new article be inserted:

'306A. (1) notwithstanding anything contained in this Constitution,

- (a) the provisions of article 211A of this Constitution shall not apply in relation to the State of Jammu and Kashmir;
- (b) the power of Parliament to make laws for the State shall be limited to
 - (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for the State; and
 - (ii) such other matters in the said List as, with the concurrence of the Government of the State, the President may by order specify;

Explanation—For the purposes of this article, the Government of the State means the person for the time being recognised by the Union as the Maharaja of Jammu and Kashmir, acting on the advice of the Council of Ministers..."

I am making, Sir, with your permission, a change here. Instead of the word "appointed" I am substituting the words, "for the time being in office" – "under the Maharaja's Proclamation, dated the fifth day of March, 1948."

Pandit Hirday Nath Kunzru : We could not hear the honourable member correctly.

The Honourable Shri N. Gopalaswami Ayyangar ;

"Explanation. – For the purposes of this article, the Government of the State means the person for the time being recognised by the Union as the Maharaja of Jammu and Kashmir, acting on the advice of the council of Ministers, for the time being in office, under the Maharaja's Proclamation, dated the fifth day of March, 1948."

I have there substituted the words "or the time being in office," for the word "appointed".

- (c) the provisions of article 1 of this Constitution shall apply in relation to the State.
- (d) such of the other provisions of this Constitution and subject to such exceptions and modifications shall apply in relation to the State as the President may by order specify;

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State aforesaid shall be issued except in consultation with the

Government of the State;

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in sub-clause (b) (ii) or in the second proviso to sub-clause (d) of clause (1) was given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the preceding clauses of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State shall be necessary before the President issues such a notification."

Sir, this matter, the matter of this particular motion, relates to the Jammu and Kashmir State. The House is fully aware of the fact that the State has acceded to the Dominion of India. The history of this accession is also well known. The accession took place on the 26th October, 1947. Since then, the State has had a chequered history. Conditions are not yet normal in the State. The meaning of this accession is that at present that State is a unit of a federal State, namely, the Dominion of India. This Dominion is getting transformed into a Republic, which will be inaugurated on the 26th January, 1950. The Jammu and Kashmir State, therefore, has to become a unit of the new Republic of India.

As the House is aware, accession to the Dominion always took place by means of an instrument which had to be signed by the Ruler of the State and which had to be accepted by the Governor-General of India. That has taken place in this case. As the House is also aware, Instruments of Accession will be a thing of past in the new Constitution. The States have been integrated with the Federal Republic in such a manner that they do not have to accede or execute a document of Accession for the purpose of becoming units of the Republic, but they are mentioned in the Constitution itself; and, in the case of practically all States other than the State of Jammu and Kashmir, their constitutions also have been embodied in the Constitution for the whole of India. All those other States have agreed to integrate themselves in that way and accept the Constitution provided.

Maulana Hasrat Mohani : Why this discrimination, please?

The Honourable Shri N. Gopalaswami Ayyangar : The discrimination is due to the special conditions of Kashmir. That particular State is not yet ripe for this kind of integration. It is the hope of everybody here that in due course even Jammu and Kashmir will become ripe for the same sort of integration as has taken place in the case of other States. (Cheers) At present it is not possible to achieve that integration. There are various reasons why this is not possible now, I shall refer again to this a little later.

In the case of the other Indian States or Unions of States there are two or three points which have got to be remembered. They have all accepted the Constitution framed for States in Part I of the new Constitution and those provisions have been adapted so as to suit conditions of Indian States and Unions of States. Secondly, the Centre, that is the Republican Federal Centre will have power to make

laws applying in every such State or Union to all Union Concurrent Subjects. Thirdly, a uniformity of relationship has been established between those States and Unions and the Centre. Kashmir's conditions are, as I have said, special and require special treatment.

I do not want to take much of the time of the House, but I shall briefly indicate what the special conditions are. In the first place, there has been a war going on within the limits of Jammu and Kashmir State.

There was a cease-fire agreed to at the beginning of this year and that cease-fire is still on. But the conditions in the State are still unusual and abnormal. They have not settled down. It is therefore necessary that the administration of the State should be geared to these unusual conditions until normal life is restored as in the case of the other States.

Part of the State is still in the hands of rebels and enemies.

We are entangled with the United Nations in regard to Jammu and Kashmir and it is not possible to say now when we shall be free from this entanglement. That can take place only when the Kashmir problem is satisfactorily settled.

Again, the Government of India have committed themselves to the people of Kashmir in certain respects. They have committed themselves to the position that an opportunity would be given to the people of the State to decide for themselves whether they will remain with the Republic or wish to go out of it. We are also committed to ascertaining this will of the people by means of a plebiscite provided that peaceful and normal conditions are restored and the impartiality of the plebiscite could be guaranteed. We have also agreed that the will of the people, through the instrument of a constituent assembly, will determine the

constitution of the State as well as the sphere of Union jurisdiction over the State.

At present, the legislature which was known as the Praja Sabha in the State is dead. Neither that legislature nor a constituent assembly can be convoked or can function until complete peace comes to prevail in that State. We have therefore to deal with the Government of the State which, as represented in its Council of Ministers, reflects the opinion of the largest political party in the State. Till a constituent assembly comes into being, only an interim arrangement is possible and not an arrangement which could at once be brought into line with the arrangement that exists in the case of the other States.

Now, if government of the State.

Clause (b)(ii) refers to possible additions to the List in the Instrument of Accession, and these additions could be made according to the provisions of this article with the concurrence of the government of the State. The idea is that even before the Constituent Assembly meets, it may be necessary in the interests of both the Centre and the State that certain items which are not included in the Instrument of Accession would be appropriately added to the List in that Instrument so that administration, legislation and executive action might be furthered, and as this may happen before the Constituent Assembly meets, the only authority from whom we can get consent for the addition is the Government of the State. That is provided for.

Then, there is the Explanation, which defines what the Government of the State means. The Government of the State is defined both in the Constitution which is now supposed to be in force in the Jammu and Kashmir State as well as in the Proclamation which the Maharaja issued on the

5th March, 1948. The terms of the Proclamation, to the extent that they are inconsistent with the provisions of the Constitution Act of the State, will prevail over that Constitution Act, and therefore it is that in this Explanation it is the Proclamation which is referred to. Under the terms of that Proclamation the Maharaja constituted an interim popular Government, and he said: -

"I hereby ordain as follows :-

(1) My Council of ministers shall consist of the Prime Minister and such other Ministers as may be appointed on the advice of the Prime Minister. I have by Royal Warrant appointed, Sheikh Mohd. Abdullah as the Prime Minister with effect from the 1st day of March 1948.

He proceeds -

"The Prime Minister and other Ministers would function as a Cabinet and act on the principle of joint responsibility."

Then there was no Legislature functioning, and so he instituted a kind of responsible Government with a Prime Minister and colleagues who would own collective responsibility for their acts and regard themselves as jointly responsible for all the acts of the Government. Now, that is brought out in this Explanation.

The Honourable Shri K. Santhanam : The Explanation says that the Maharaja will be recognised by the Union instead of by the President.

The Honourable Shri N. Gopalaswami Ayyangar : Perhaps we may leave it to the Third Reading. As you know the scheme of the Constitution Act is that the Rajpramukh must be recognised by the President. So, this also says that the Maharaja of Jammu and Kashmir should be a persons

recognised for the time being by the Union.

As regards the Council of Ministers, this Proclamation set up a system under which this Council was to be established, viz., that the Maharaja first finds the Prime minister and then on his advice appoints his colleagues, and the Explanation as now amended by me says that whatever Council of Ministers is in being at the time will, along with the Maharaja to whom they are responsible give their concurrence or give their advice on such matters as are referred to them under this article.

Clauses (c) and (d) refer to the provisions of the Constitution other than the matters listed in Lists I and III. These various provisions have been divided into certain categories. The first according to this draft is that article 1 of the Constitution will automatically apply. As you know, it describes the territory of India, and includes amongst these territories all the States mentioned in Part III, and Jammu and Kashmir is one of the States mentioned in Part III. With regard to the other provisions in the Constitution, these will apply to the Jammu and Kashmir State with such exceptions and modifications as may be decided on when the President issues an order to that effect. That Order can be issued in regard to subjects mentioned in the Instrument of Accession only after consultation with the Government of the State. In regard to other matters, the concurrence of that Government has to be taken.

Now, it is not the case, nor is it the intention of the members of the kashmir Government whom I took the opportunity of consulting before this draft was finalised – it is not their intention that the other provisions of the Constitution are not to apply. Their particular point of view is that these provision should apply only in cases where they can apply the

only subject to such modifications or exceptions as the particular conditions of the Jammu and Kashmir State may require. I wish to say no more about that particular point at the present moment.

Then we come to clause (2). You will remember that several of these clauses provide for the concurrence of the Government of Jammu and Kashmir State. Now, these relate particularly to matters which are not mentioned in the Instrument of Accession, and it is one of our commitments to the people and Government of Kashmir that no such additions should be made except with the consent of the Constituent Assembly which may be called in the State for the purpose of framing its Constitution. In other words, what we are committed to is that these additions are matters for the determination of the Constituent Assembly of the State.

Now, you will recall that in some of the clauses of this article we have provided for the concurrence of the Government of the State. The government of the State feel that in view of the commitments already entered into between the State and the Centre, they cannot be regarded as final authorities for the giving of this concurrence, though they are prepared to give it in the interim periods but if they do give this concurrence, this clause provides that that concurrence should be placed before the Constituent Assembly when it meets and the Constituent Assembly may take whatever decisions it likes on those matters.

The last clause refers to what may happen later on. We have said article 211A will not apply to the Jammu and Kashmir State. But that cannot be a permanent feature of the Constitution of the State, and hope it will not be. So the provision is made that when the Constituent Assembly of the state has met and taken its decision both on the Constitution

for the State and on the range of federal jurisdiction over the State, the President may on the recommendation of that Constituent Assembly issue an order that this article 306A shall either cease to be operative, or shall be operative only subject to such exceptions and modifications as may be specified by him. But before he issues any order of that kind the recommendation of the Constituent Assembly will be a condition precedent. That explains the whole of this article.

The effect of this article is that the Jammu and Kashmir State which is now a part of India will continue to be a part of India, will be a unit of the future Federal Republic of India and the Union Legislature will get jurisdiction to enact laws on matters specified either in the Instrument of Accession or by later addition with the concurrence of the Government of the State. And steps have to be taken for the purpose of convening a Constituent Assembly in due course which will go into the matters I have already referred to. When it has come to a decision on the different matters it will make a recommendation to the President who will either abrogate article 306A or direct that it shall apply with such modifications and exceptions as the Constituent Assembly may recommend. That, Sir, is briefly a description of the effect of this article, and I hope the House will carry it.

(Amendment Nos. 459, 460 and 461 were not moved)

Shri Mahavir Tyagi : (United Provinces : General) I am not in concurrence with the wording of the clauses, but I do not wish to move the amendments.

(Amendment No. 462 was not moved)

Mr. President : There is one more amendment of which notice was received this morning. That is by Shri Mahavir Tyagi to the effect 'that n amendment No.451 of List XX (Second Week), in the proviso to clause (3) of the proposed

new article 306A" for the word "recommendation" the word "consultation" be substituted.

Shri Mahavir Tyagi : I am not moving that too.

Mr. President : The article is now open to discussion.

Maulana Hasrat Mohani : Sir, I want to make it clear at the very outset that I am neither opposed to all these concessions being granted to my Friend Sheikh Abdullah, nor am I opposed to the acceptance of the Maharaja as the ruler of Kashmir. And if the Maharaja of Kashmir gets further powers and concessions I will be very glad. But what I object to is this. Why do you make this discrimination about this Ruler ? My. Ayyangar has himself admitted here that the administration of Kashmir State is not on a very good basis ...

Mr. President : Maulana, we are not concerned with the maharaja of Baroda here.

Maulana Hasrat Mohani : Well, I would not go into any detail. But I say that I object to this sort of thing. If you grant these concessions to the maharaja of Kashmir you should also withdraw your decision about the merger of Baroda into Bombay and allow all these concessions and many more concessions to the Baroda ruler also.

Mr. President: The question is :

"That with reference to Amendment No.379 of List XV (Second Week), after article 306, the following new article be inserted : -

'306A. (1) Notwithstanding anything contained in this Constitution.

(a) the provisions of article 211A of this Constitution shall not apply in relation to the State of Jammu and Kashmir.

- (b) the power of Parliament to make laws for the State shall be limited to
 - (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India are the matters with respect to which the Dominion Legislature may make laws for the State; and
 - (ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify;

Explanation :- For the purposes of this article, the government of the State means the person for the time being recognised by the union as the maharaja of Jammu and Kashmir, acting on the advice of the Council of Ministers, for the time being in office, under the Maharaja's Proclamation, dated the fifth day of March, 1948.

- (c) the provisions of article 1 of this Constitution shall apply in relation to the State;
- (d) such of the other provision of this Constitution and subject to such exceptions and modifications shall apply in relation to the State as the President may by order specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State aforesaid shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters

other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in sub-clause (b)

(ii) or in the second proviso to sub-clause (d) of clause (1) was given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the preceding clause of this article, the President may, by public notification declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State shall be necessary before the President issues such a notification."

The motion was adopted.

Article 306A was added to the Constitution.

Proclamation For the State of Jammu & Kashmir

Dated the 25th November, 1949

Whereas with the inauguration of the new Constitution for the Whole of India now being framed by the Constituent Assembly of India., the Government of India Act, 1935, which now governs the constitutional relationship between this State and the Dominion of India will stand repealed ;

And WHEREAS, in the best of interests of this State , which is closely linked with the rest of India by a community of interests in the economic political and other fields, it is desirable that the constitutional relationship established between this State and the Dominion of India , should be continued as between this State and the contemplated Union of India ; and the Constitution of India as drafted by the Constituent Assembly of India, which includes duly appointed representatives of this State, provides a suitable basis for doing so;

I now hereby declare and direct----

That the Constitution of India shortly to be adopted by the Constituent Assembly of India shall in so far it is applicable to the State of Jammu & Kashmir, govern the constitutional relationship between this State and contemplated Union of India and shall be enforced in this State by me, my heirs and successors in accordance with the tenor of its provisions;

That the provisions of the said Constitution shall, as from the date of its commencement, supersede and abrogate all other constitutional provisions inconsistent therewith which are at present in force in this State.

KARAN SINGH

Yuvraj, Regent of Jammu & Kashmir

C. GANESAN. Dy. Secy

Text of the Proclamation issued by the Head of the Jammu and Kashmir State

on 1st May, 1951.

Whereas it is the general desire of the people of the State of Jammu and Kashmir that a Constituent Assembly should be brought into being for the purpose of framing a Constitution for the State;

Whereas it is commonly felt that the convening of the Assembly can no longer be delayed without detriment to the future well-being of the State;

And whereas terms of the proclamation of the Maharaja dated 5 March, 1948 in regard to the convening of National assembly as contained in clauses 4 to 6 of the operative part thereof do not meet the requirements of the present situation;

I, Yuvraj Karan Singh, do hereby direct as follows:

1. A Constituent Assembly consisting of representatives of the people, elected on the basis of adult franchise shall be constituted forthwith for the purpose of framing a constitution for the State of Jammu and Kashmir;
2. For the purpose of the said elections the State shall be divided into a number of territorial constituencies each containing a population of 40,000 or as near thereto as possible and each electing one member. A delimitation Committee shall be set up by the Government to make recommendations as to the number of constituencies

and the limits of each constituency;

3. Elections to the Constituent Assembly shall be on the basis of adult franchise, that is to say, every person who is a State subject of any class, is not less than twenty-one years of age on the first day of March, has been a resident in the constituency for such period as may be prescribed by the rules, shall be entitled to register in the electoral rolls of that constituency, provided that any person who is of unsound mind or has been so declared by a competent court, shall be disqualified for registration;
4. The vote at the election shall be direct and by secret ballot;
5. The Constituent Assembly shall have power to act notwithstanding any vacancy of the Membership thereof;
6. The Constituent Assembly shall frame its own agenda and make rules for the governing of its procedure and the conduct of its business; The Government shall make such rules and issue such instructions and orders as may be necessary to give effect to the terms of this proclamation.

Part XXI

¹[Temporary, transitional and special provisions.]

Text of Article 370 : Temporary Provisions with respect to the State of Jammu and Kashmir

²**[370. Temporary provisions with respect to the State of
Jammu and Kashmir.-**

- (1) Notwithstanding anything in this Constitution,-
- (a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir;
- (b) the power of Parliament to make laws for the said State shall be limited to-
 - (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

1. Subs. By the Constitution (Thirteenth Amendment) Act, 1962, S. 2, for "TEMPORARY, AND TRANSITIONAL PROVISIONS" (w.e.f. 1-12-1963).

2. In exercise of the powers conferred by this article the President, on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir, declared that, as from the 17th day of November, 1952, the said art. 370 shall be operative with the modification that for the Explanation in cl. (1) thereof, the following Explanation is substituted, namely :-

"Explanation – For the purposes of this article, the Government of the State means the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the *Sadar-I-Riyasat of Jammu and Kashmir, acting on the advice of the Council of ministers of the state for the time being in office. "

(Ministry of Law Order No. C.O. 44, dated the 15th November, 1952).

*Now "Governor".

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

Explanation.-For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948;

- (c) the provisions of article 1 and of this article shall apply in relation to that State;
- (d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by ³ order specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed

3. See the Constitution (Application to Jammu and Kashmir) Order, 1954 (C.O. 48), as amended from time to time in Appendix I.

before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.

Extracts from the Constitution of India

1. Name and territory of the Union.—(1) India, that is Bharat, shall be a Union of States.
2. The States and the territories thereof shall be as specified in the First Schedule.
3. The territory of India shall comprise—
 - (a) The territories of the States;
 - (b) The Union territories specified in the First Schedule; and
 - (c) Such other territories as may be acquired.

FIRST SCHEDULE

[Articles 1 and 4]

I. THE STATES

Name	Territories
1. Andhra Pradesh	The territories specified in sub-section (1) of section 3 of the Andhra State Act, 1953, sub-section (1) of section 3 of the States Reorganisation Act, 1956, the First Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959, and the Schedule to the Andhra Pradesh and Mysore

Name

Territories

(Transfer of Territory) Act, 1968, but excluding the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959.

2. Assam

The territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas, but excluding the territories specified in the Schedule to the Assam (Alteration of Boundaries) Act, 1951 and the territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962 and the territories specified in sections 5, 6 and 7 of the North-Eastern Areas (Reorganization) Act, 1971

3. Bihar

The territories which immediately before the commencement of this Constitution were either comprised in the Province of Bihar or were being administered as if they formed part of that Province and the territories specified in clause (a) of sub-section (1) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act,

Name	Territories
	1968, but excluding the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956, and the territories specified in clause (b) of sub-section (1) of section 3 of the first mentioned Act and the territories specified in section 3 of the Bihar Reorganisation Act, 2000.
4. Gujarat	The territories referred to in sub-section (1) of section 3 of the Bombay Reorganisation Act, 1960.
5. Kerala	The territories specified in sub-section (1) of section 5 of the States Reorganisation Act, 1956.
6. Madhya Pradesh	The territories specified in sub-section (1) of section 9 of the States Reorganisation Act, 1956 and the First Schedule to the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959, but excluding the territories specified in section 3 of the Madhya Pradesh Reorganisation Act, 2000.
7. Tamil Nadu	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Madras or were being administered as if they formed part of that Province and

Name

Territories

the territories specified in section 4 of the States Reorganisation Act, 1956, and the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959, but excluding the territories specified in sub-section (1) of section 3 and sub-section (1) of section 4 of the Andhra State Act, 1953 and the territories specified in clause (b) of sub-section (1) of section 5, section 6 and clause (d) of sub-section (1) of section 7 of the States Reorganisation Act, 1956 and the territories specified in the First Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959.

8. Maharashtra

The territories specified in sub-section (1) of section 8 of the States Reorganisation Act, 1956, but excluding the territories referred to in sub-section (1) of section 3 of the Bombay Reorganisation Act, 1960.

9. Karnataka

The territories specified in sub-section (1) of section 7 of the States Reorganisation Act, 1956 but excluding the territory specified in the Schedule to the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968.

Name	Territories
10. Orissa	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Orissa or were being administered as if they formed part of that Province.
11. Punjab	The territories specified in section 11 of the States Reorganisation Act, 1956 and the territories referred to in Part II of the First Schedule to the Acquired Territories (Merger) Act, 1960 but excluding the territories referred to in Part II of the First Schedule to the Constitution (Ninth Amendment) Act, 1960 and the territories specified in sub-section (1) of section 3, section 4 and sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966.
12. Rajasthan	The territories specified in section 10 of the States Reorganisation Act, 1956 but excluding the territories specified in the First Schedule to the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959.
13. Uttar Pradesh	The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being administered as if they formed part

Name**Territories**

of that Province, the territories specified in clause (b) of sub-section (1) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968, and the territories specified in clause (b) of sub-section (1) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979, but excluding the territories specified in clause (a) of sub-section (1) of section 3 of the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968, and the territories specified in section 3 of the Uttar Pradesh Reorganisation Act, 2000 and the territories specified in clause (a) of sub-section (1) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979.

14. West Bengal

The territories which immediately before the commencement of this Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that Province and the territory of Chandernagore as defined in clause (c) of section 2 of the Chandernagore (Merger) Act, 1954 and also the territories specified in sub-section (1) of

Name	Territories
	section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.
15. Jammu and Kashmir	The territory which immediately before the commencement of this Constitution was comprised in the Indian State of Jammu and Kashmir.
16. Nagaland	The territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962.
17. Haryana	The territories specified in sub-section (1) of section 3 of the Punjab Reorganisation Act, 1966 and the territories specified in clause (a) of sub-section (1) of section 4 of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979, but excluding the territories specified in clause (v) of sub-section (1) of section 4 of that Act.
18. Himachal Pradesh	The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissioners' Provinces under the names of Himachal Pradesh and Bilaspur and the territories specified in sub-section (1) of

Name	Territories
	section 5 of the Punjab Reorganisation Act, 1966.
19. Manipur	The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Manipur.
20. Tripura	The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Tripura.
21. Meghalaya	The territories specified in section 5 of the North-Eastern Areas (Reorganisation) Act, 1971.
22. Sikkim	The territories which immediately before the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975, were comprised in Sikkim.
24. Arunachal Pradesh	The territories specified in section 7 of the North-Eastern Areas (Reorganisation) Act, 1971.
25. Goa	The territories specified in section 3 of the Goa, Daman and Diu Reorganisation Act, 1987.
26. Chhattisgarh	The territories specified in section 3

Name	Territories
	of the Madhya Pradesh Reorganisation Act, 2000.
27. Uttarakhand	The territories specified in section 3 of the Uttar Pradesh Reorganisation Act, 2000.
28. Jharkhand	The territories specified in section 3 of the Bihar Reorganisation Act, 2000.

II. THE UNION TERRITORIES

Name	Extent
1. Delhi	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Delhi.
2. The Andaman & Nicobar Islands	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the Andaman and Nicobar Islands.
3. Lakshadweep	The territory specified in section 6 of the States Reorganisation Act, 1956.
4. Dadra and Nagar Haveli	The territory which immediately before the eleventh day of August, 1961 was

Name	Extent
	comprised in Free Dadra and Nagar Haveli.
5. Daman and Diu	The territories specified in section 4 of the Goa, Daman and Diu Reorganisation Act, 1987.
6. Puducherry	The territories which immediately before the sixteenth day of August, 1962, were comprised in the French Establishments in India known as Pondicherry, Karikal, Mahe and Yanam.
7. Chandigarh	The territories specified in section 4 of the Punjab Reorganisation Act, 1966.

The Constitution (Application to Jammu and Kashmir) Order, 1950

In exercise of the powers conferred by clause (1) or Article 370 of the Constitution of India, the President, in consultation with the Government of the State of Jammu and Kashmir, is pleased to make the following order, namely:-

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 1950.
(2) It shall come into force at once.
2. For the purposes of sub-clause (b) (i) of clause (1) of Article 370 of the Constitution, the matters specified in the First Schedule to this Order being matters in the Union List, are hereby declared to correspond to matters specified in the Instrument of Accession governing the accession of the State of Jammu and Kashmir to the Dominion of India as the matters with regard to which the Dominion Legislature may make laws for that State; and accordingly, the powers of Parliament to make laws for the State shall be limited to the matters specified in the said First Schedule.
3. In addition to the provisions of Articles 1 and Article 370 of the Constitution, the only other provisions of the Constitution which shall apply in relation to the State of Jammu and Kashmir shall be those specified in the Second Schedule to this order, and shall so apply subject to the exceptions and modifications specified in the said Schedule.

The First Schedule

(See Paragraph 2)

[Note:—The number of each entry in the Schedule is the number of the corresponding entry in the Union List.]

1. Defence of India and every part thereof including preparation for defence.
2. Naval, military and air forces; and other armed forces of the Union.
3. Delimitation of cantonment areas, local self-Government in such areas, the Constitution and powers within such areas of cantonment authorities and the regulations of house accommodation (including the control of rents) in such areas.
4. Naval, military and air force works.
5. Arms, firearms, ammunition and explosives.
6. Atomic energy for the purpose of defence and mineral resources necessary for its production.
9. Preventive detention for reasons connected with defence, Foreign affairs or the security of India.
10. Foreign Affairs; all matters which bring the Union into relation with any foreign country.
11. Diplomatic, consular and trade representation.
12. United Nations Organisation.
13. Participation in international conferences, associations and other bodies and implementing of decisions made there at.

14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries.
15. War and peace.
16. Foreign jurisdiction.
17. Naturalisation and aliens.
18. Extradition.
19. Admission into, and emigration and expulsion from, India; pass-port and visas.
20. Pilgrimages to places outside India.
21. Piracies and crimes committed on the high seas or in the air offence against the law of nations committed on land or on the high seas or in the air.
22. Railways, but as respects any railway owned by the State of Jammu and Kashmir, and either operated by that State or operated on its behalf otherwise than in accordance with a contract with the State by the Government of India, limited to the regulation thereof in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of the railway administration as carriers of goods and passengers and as respects any railway which is wholly situate within the State and does not form a continuous line of communication with a railway owned by the Government of India, whether of the same gauge or not, limited to the regulation thereof in respect of safety and the responsibility of the railway administration as carriers of goods and passengers.
25. Maritime shipping and navigation, including shipping

and navigation on tidal waters, provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.

26. Lighthouses, including Lightships, beacon and other provision for the safety of shipping and aircraft. 27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the Constitution and powers of port authorities therein.
28. Port quarantine, including hospitals, connected therewith; seamen's and marine hospitals.
29. Airways, aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.
30. Carriage of passengers and goods by railway, sea or air.
31. Posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication.
41. Trade and commerce with foreign countries.
72. Elections to Parliament, and the offices of President and Vice-President; the Election Commission.
73. Salaries and allowances of members of Parliament, the Chairman and Deputy Chairman of the Council of States, and the Speaker and Deputy Speaker of the House of the people.
74. Powers, privileges and immunities of each House of Parliament and of the members and the communities of

each house; enforcement of attendance of persons for giving evidence or producing documents before committee of Parliament or commissions appointed by Parliament.

75. Salaries and allowances of the Ministers for the Union; the salaries, allowances and rights in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General.
76. Audit of the accounts of the Union.
77. Constitution and organisation of the Supreme Court and the fees taken therein; persons entitled to practice before the Supreme Court.
80. Extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.
93. Offences against laws with respect to any of the matters aforesaid.
94. Inquiries and statistics for the purpose of any of the matters aforesaid.
95. Jurisdiction and powers of all Courts, except the Supreme Court with respect to any of the matter aforesaid, but, except with the consent of the State Government not so as to confer any jurisdiction or powers upon any Courts other than Courts ordinarily exercising jurisdiction in, or in relation to, the State; admiralty jurisdiction.
96. Fees in respect of any of the matters aforesaid but not including fees taken in any Court.

The Second Schedule
(See paragraph 3)

Provisions of the Constitution applicable	Exceptions	Exceptions
Part V	Article 72 (1) (c), 71 (3), 133, 134, 135, 136, 138, 145 (1) (C) and 152 (2)	(1) Article 80 and 81 shall apply subject to the modification that representatives of the State in the Council of the State in House of the people respectively, shall be chosen by the President in consultation with the Government of the State. (2). Article 149 and 150 shall apply subject to the modification that the references therein to the State shall be construed as not including the State of Jammu and Kashmir.
Part XI	Article 247 to 252, clauses (3) and (4) of Articles 257 and Article 260, 262 and 263	(1). Clause (1) of Article 246 shall apply subject to the provisions of paragraph 2 of this order and clauses (2) and (3) OF Article 246 shall not apply in relation to the State. (2). Clause (1) of Article 259 shall apply subject to the modification that after the

Provisions of the Constitution applicable	Exceptions	Exceptions
		words ' until parliament by law otherwise provides' the words ' and the concurrence of the State to such law has been obtained' shall be deemed to the inserted.
Part XII	Article 264, and 265, clause (2) of Article 267, clause (2) of Article 283, Articles 286 to 291, 293, 295, 296 and 297	(1). Article 266 shall apply only so far as it relates to the consolidated Fund of India and the public account of India. (2). Articles 282 and 284 apply only in so far as they relate to the Union or the public account of India. (3). Articles 298, 299 and 300 shall apply only in so far as they relate to the Union or Government of India.
Part XV	Articles 325 to 329.	Article 324 shall apply only in so far as it relates to elections to Parliament and so the offices of the President and Vice-President.
Part XVI	Articles 332, 333, and 337 to 342	(1). Article 330 shall apply only in so far as it relates to seats reserved for Scheduled Castes.

Provisions of the Constitution applicable	Exceptions	Exceptions
		<p>(2). Article 335 shall apply only in so far as it relates to the House of the People.</p> <p>(3). Article 335 shall apply only in so far as it is relates to the union.</p>
Part XVII	Nil	The provisions of this Part shall apply only in so far as they relate to the official language of the Union and to proceedings in the Supreme Court.
Part XIX	Articles 362,363 and 365.	<p>(1). Article 361 shall apply only in so far as it relates to the President.</p> <p>(2). Article 364 shall apply only in so far as it relates to the laws made by Parliament.</p>
Part XX	Nil	<p>Article 368 shall apply subject to the additional proviso:</p> <p>“ Provided further that no such amendment shall have effect in relation to the state of Jammu and Kashmir unless applied by order of the President under clause (1) of Article 370. “</p>
Part XXI	Articles 369, 371 and 373,	(1). In clause (3) of article 379 after the words “ Minister for

Provisions of the Constitution applicable	Exceptions	Exceptions
	clause (4) of article 374, article 376 and 378 and clause (2) of article 888	any such state “, the words “other than the state of Jammu and Kashmir “ shall be deemed to be inserted. (2). Article 389 shall apply only in so far as it relates to Bills pending in the Dominion Legislatures. (3). Article 390 shall apply only in so far as it relates to the Consolidated Fund of India.
Part XXI	Nil	Nil
First Schedule	Nil	Nil
Second Schedule	Paragraph 6	Nil
Third Schedule	Forms V, VI, VII and VIII	Nil
Fourth Schedule	Nil	Nil
Eighth Schedule	Nil	Nil

Rajendra Prasad,
President.

K.V.K. Sundaram,
Secretary.

**The Constitution (Application to Jammu
& Kashmir) Amendment Order No. 39,
Dated 20 March 1952**

**Published with the Ministry of Law, Notification No.
SRO 528, Dated the 20th March, 1952, Gazette of India,
Extraordinary, 1952, Part II, Section 3, p. 439**

CO 39

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution of India, the President, in consultation with the Government of the State of Jammu and Kashmir, is pleased to make the following Order, namely:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) (Amendment) Order, 1952.

(2) It shall come into force at once.

2. In the Second Schedule to the Constitution (Application to Jammu

and Kashmir) Order, 1950, in the entry in third column relating to Part V, after modification (1), the following modification shall be inserted, namely:—

(1A) Articles 54 and 55 shall apply subject to the modifications:—

(2) that the references therein to the elected members of both Houses of Parliament and to each elected member of either

House of Parliament shall be deemed to include, respectively, a reference to the representatives of the State in those Houses and to each such representative,

(3) that the references to the elected members of the Legislative Assemblies of the States and to each such elected member shall be deemed to include, respectively, a reference to the members of the Constituent Assembly of the State and to each such member, and

(4) that the population of the State shall be deemed to be forty-four lakhs and ten thousand.

**The Constitution (Application to Jammu
& Kashmir) Second Amendment Order
No. 43, Dated 15 November 1952**

**Published with the Ministry of Law, Notification No.
SRO 1903, Dated the 15th November, 1972, Gazette of
India, Extraordinary, 1950, Part II, Section 3, p. 915**

CO 43

In exercise of the powers conferred by clause (1) of article 370 of the Constitution of India, the President, in consultation with the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1952.

(2) It shall come into force on the 17th day of November, 1952.
2. At the end of paragraph 3 of the Constitution (Application to Jammu and Kashmir) Order, 1950¹ (hereinafter referred to as 'the principal Order'), there shall be added the words 'and to the modification that all references in the said provisions to the Rajpramukh shall be construed as references in the Sadar-i-Riyasat of Jammu and Kashmir'.
3. In the Second Schedule to the Principal Order:—
 - (a) in the entry in the second column relating to Part XIX, after the figures '365' the words, brackets and figures 'and clause (21) of Article 366' shall be inserted; and
 - (b) in the entry in the second column relating to Part XXI, for the figures and word '376 and 378' the figures and word '376, 378 and 386' shall be substituted.

¹ CO 10, *supra*. Since superseded by CO 48, *infra*.

**The Constitution (Application to jammu
& Kashmir) Order No.44, Dated 15
November 1952**

**Ministry of Law Order No. CO 44, Dated the 15th
November 1952**

On November 15, 1952 Constitution Order No.44 was made by the President under Article 370: 'In exercise of the powers conferred by this article the President , on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir, declare that , as from the 17th day of November, 1952 the said Article 370 shall be operative with the modification that for the explanation in clause (1) thereof, the following explanation is submitted namely :-

Explanation.--- Fo the purpose of this article , the Government of the State means the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir , acting on the advice of the Council of Ministers of the State for the time being in office.

REGISTERED No. D. 221

The Gazette of India
EXTRAORDINARY
PART II—Section 3
PUBLISHED BY AUTHORITY
No. III] NEW DELHI, FRIDAY, MAY 14, 1954
MINISTRY OF LAW
NOTIFICATION

New Delhi, the 14th May 1954

S.R.O. 1610.—The following Order made by the President is published for general information:—

C. O. 48

The Constitution (Application to Jammu and Kashmir) Order, 1954

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 1954.
- (2) It shall come into force on the fourteenth day of May, 1954, and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1950.
2. The provisions of the Constitution which, in addition to article 1 and article 370, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications

subject to which they shall so apply shall be as follows:—

(1) THE PREAMBLE.

(2) PART I

To article 3, there shall be added the following further proviso, namely:—

"Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State."

(3) PART II.

(a) This Part shall be deemed to have been applicable in relation to the, State of Jammu and Kashmir as from the 26th day of January, 1950.

(b) To article 7, there shall be added the following further proviso, namely:—

"Provided further that nothing in this article shall apply to a permanent resident of the State of Jammu and Kashmir who, after having so migrated to the territory now included in Pakistan, returns to the territory of that State under a permit for resettlement in that State or permanent return issued by or under the authority of any law made by the Legislature of that State, and every such person shall be deemed to be a citizen of India."

(4) PART III.

(a) In article 13, references to the commencement of the Constitution, shall be construed as references to the commencement of this Order.

(b) In clause (4) of article 15, the reference to Scheduled

Tribes shall be omitted.

(c) In clause (3) of article 16, the reference to the State shall be construed as not including a reference to the State of Jammu and Kashmir.

(d) In article 19, for a period of five years from the commencement of this Order:—

(i) in clauses (3) and (4) after the words "in the interests of" the words "the security of the State or" shall be inserted;

(ii) in clause (5), for the words "or for the protection of the interests of any Scheduled Tribe" the words "or in the interests of the security of the State" shall be substituted; and

(iii) the following new clause shall be added, namely: —

'(7) The words "reasonable restrictions" occurring in clauses (2), (3), (4) and (5) shall be construed as meaning such restrictions as the appropriate Legislature deems reasonable.'

(e) In clauses (4) and (7) of article 22, for the word "Parliament", the words "the Legislature of the State" shall be substituted.

(f) In article 31, clauses (3), (4) and (6) shall be omitted; and for clause (5), there shall be substituted the following clause, namely:—

"(5) Nothing in clause (2) shall affect—

(a) the provisions of any existing law; or

(b) the provisions of any law which the State may hereafter make—

(i) for the purpose of imposing or levying any tax or penalty; or

(ii) for the promotion of public health or the prevention of danger to life or property; or

(iii) with respect to property declared by law to be evacuee property."

(g) In article 31A, the proviso to clause (1) shall be omitted; and for sub-clause (a) of clause (2), the following sub-clause shall be substituted, namely: —

'(a) "estate" shall mean land which is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes—

(i) sites of buildings and other structures on such land;

(ii) trees standing on such land;

(iii) forest land and wooded waste;

(iv) area covered by or fields floating over water;

(v) sites of jandars and gharats;

(vi) any jagir, inam, muafi or mukarrari or other similar grant; but does not include—

(i) the site of any building in any town, or town area or village abadi or any land appurtenant to any such building or site;

(ii) any land which is occupied as the site of a town or village; or

(iii) any land reserved for building purposes in a municipality or notified area or cantonment or town area or any area for which a town planning scheme is sanctioned.'

(h) In article 32, clause (3) shall be omitted; and after clause (2), the following new clause shall be inserted, namely: —

"(2A) Without prejudice to the powers conferred by clauses

(1) and (2), the High Court shall have power throughout the territories in relation to which it exercises jurisdiction to issue to any person or authority, including in appropriate cases any Government within those territories, directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by this Part."

(i) In article 35—

(i) references to the commencement of the Constitution shall be construed as references to the commencement of this Order;

(ii) in clause (a) (i), the words, figures and brackets "clause (3) of article 16, clause (3) of article 32" shall be omitted; and

(iii) after clause (b), the following clause shall be added, namely: —

"(c) no law with respect to preventive detention made by the Legislature of the State of Jammu and Kashmir, whether before or after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, shall be void on the ground that it is inconsistent with any of the provisions of this Part, but any such law shall, to the extent of such inconsistency, cease to have effect on the expiration of five years from the commencement of the said Order, except as respects things done or omitted to be done before the expiration thereof".

(j) After article 35, the following new article shall be added, namely: —

"35A. Saving of laws with respect to permanent residents and their rights.—Notwithstanding anything contained in this Constitution, no existing law in force in the State of Jammu

and Kashmir, and no law here after enacted by the Legislature of the State,—

(a) defining the classes of persons who are, or shall be, permanent residents of the State of Jammu and Kashmir; or

(b) conferring on such permanent residents any special rights and privileges or imposing upon other persons any restrictions as respects—

(i) employment under the State Government;

(ii) acquisition of immovable property in the State;

(iii) settlement in the State; or

(iv) right to scholarships and such other forms of aid as the State Government may provide,

shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this Part."

(5) PART V.

(a) In articles 54 and 55, references to the elected members of the House of the People and to each such member shall include references to the representatives of the State of Jammu and Kashmir in that House; and the population of the State shall be deemed to be forty-four lakhs and ten thousand.

(b) In the proviso to clause (1) of article 73, the words "or in any law made by Parliament" shall be omitted.

(c) Article 81 shall apply subject to the modification that the representatives of the State in the House of the People shall be appointed by the President on the recommendation of the Legislature of the State.

(d) In article 134, clause (2), after the words "Parliament

may", the words "on the request of the Legislature of the State" shall be inserted.

(e) Articles 135, 136 and 139 shall be omitted.

(f) In articles 149 and 150, references to the States shall be construed as not including the State of Jammu and Kashmir.

(g) In article 151, clause (2) shall be omitted.

(6) PART XI.

(a) In article 246, the words, brackets and figures "Notwithstanding anything in clauses (2) and (3)" occurring in clause (1), and clauses (2), (3) and (4) shall be omitted.

(b) Articles 248 and 249 shall be omitted.

(c) In article 250, for the words "to any of the matters enumerated in the State List", the words "also to matters not enumerated in the Union List" shall be substituted.

(d) In article 251, for the words and figures, "articles 249 and 250"; the word and figures "article 250" shall be substituted, and the words "under this Constitution" shall be omitted; and, for the words "under either of the said articles", the words "under the said article" shall be substituted.

(e) To article 253, the following proviso shall be added, namely:—

"Provided that after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of India without the consent of the Government of that State."

(f) In article 254, the words, brackets and figure "or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to

the provisions of clause (2)" and the words "or as the case may be the existing law", occurring in clause (1), and the whole of clause (2) shall be omitted.

(g) Article 255 shall be omitted.

(h) Article 256 shall be renumbered as clause (1) of that article, and the following new clause shall be added thereto, namely:—

"(2) The State of Jammu and Kashmir shall so exercise its executive power as to facilitate the discharge by the Union of its duties and responsibilities under the Constitution in relation to that State; and in particular, the said State shall, if so required by the Union, acquire or requisition property on behalf and at the expense of the Union, or if the property belongs to the State, transfer it to the Union on such terms as may be agreed, or in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India."

(i) Article 259 shall be omitted.

(j) In clause (2) of article 261, the words "made by Parliament" shall be omitted.

(7) PART XII.

(a) Clause (2) of article 267, article 273, clause (2) of article 283, articles 290 and 291 shall be omitted.

(b) In articles 266, 282, 284, 298, 299 and 300, references to the State or States shall be construed as not including references to the State of Jammu and Kashmir.

(c) In articles 277 and 295, references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(8) PART XIII.

(a) In clause (1) of article 303, the words "by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule" shall be omitted.

(b) In article 306, references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(9) PART XIV.

In article 308, after the words "First Schedule", the words "other than the State of Jammu and Kashmir" shall be added.

(10) PART XV.

(a) Article 324 shall apply only in so far as it relates to elections to Parliament and to the offices of President and Vice-President.

(b) Articles 325, 326, 327, 328 and 329 shall be omitted.

(11) PART XVI.

(a) In article 330, references to the "Scheduled Tribes" shall be omitted.

(b) Articles 331, 332, 333, 336, 337, 339 and 342 shall be omitted.

(c) In articles 334 and 335, references to the State or the States shall be construed as not including references to the State of Jammu and Kashmir.

(12) PART XVII.

The provisions of this Part shall apply only in so far as they relate to -

(i) the official language of the Union;

- (ii) the official language for communication between one State and another, or between a State and the Union; and
- (iii) the language of the proceedings in the Supreme Court .

(13) PART XVIII .

(a) To article 352, the following new clause shall be added, namely:-

"(4) No Proclamation of Emergency made on grounds only of internal disturbance or imminent danger thereof shall have effect in relation to the State of Jammu and Kashmir (except as respects article 354) unless it is made at the request or with the concurrence of the Government of that State."

(b) Articles 356, 357 and 360 shall be omitted.

(14) PART XIX.

(a) In article 361, after clause (4), the following clause shall be added, namely: —

"(5) The provisions of this article shall apply in relation to the Sadar-i-Riyasat of Jammu and Kashmir as they apply in relation to a Rajpramukh, but without prejudice to the provisions of the Constitution of that State."

(b) Articles 362 and 365 shall be omitted.

(c) In article 366, clause (21) shall be omitted.

(d) To article 367, there shall be added the following clause, namely: —

"(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution

or the provisions thereof as applied in relation to the said State;

(b) references to the Government of the said State shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers;

(c) references to a High Court shall include references to the High Court of Jammu and Kashmir;

(d) references to the Legislature or the Legislative Assembly of the said State shall be construed as including references to the Constituent Assembly of the said State;

(e) references to the permanent residents of the said State shall be construed as meaning persons who, before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, were recognised as State subjects under the laws in force in the State or who are recognised by any law made by the Legislature of the State as permanent residents of the State; and

(f) references to the Rajpramukh shall be construed as references to the person for the time being recognised by the President as the Sadar-i-Riyasat of Jammu and Kashmir and as including references to any person for the time being recognised by the President as being competent to exercise the powers of the Sadar-i-Riyasat.

(15) PART XX.

To article 368, the following proviso shall be added, namely:—

"Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of article 370".

(16) PART XXI.

(a) Articles 369, 371, 373, clauses (1), (2), (3) and (5) of article 374 and articles 376 to 392 shall be omitted.

(b) In article 372—

(i) clauses (2) and (3) shall be omitted,

(ii) references to the laws in force in the territory of India shall include references to hedayats, ailans, ishtihars, circulars, robkars, irshads, yadashts, State Council Resolutions, Resolutions of the Constituent Assembly, and other instruments having the force of law in the territory of the State of Jammu and Kashmir; and

(iii) references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(c) In clause (4) of article 374, the reference to the authority functioning as the Privy Council of a State shall be construed as a reference to the Advisory Board constituted under the Jammu and Kashmir Constitution Act, 1996, and references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(17) PART XXII.

Articles 394 and 395 shall be omitted.

(18) FIRST SCHEDULE.

(19) SECOND SCHEDULE.

Paragraph 6 shall be omitted.

(20) THIRD SCHEDULE.

Forms V, VI, VII and VIII shall be omitted.

(21) FOURTH SCHEDULE.

(22) SEVENTH SCHEDULE.

(a) In the Union List—

(i) for entry 3, the entry "3. Administration of cantonments" shall be substituted;

(ii) entries 8, 9, 33 and 34, the words "trading corporations including" in entry 43, entries 44, 50, 52, 54, 55, 60, 67, 69, 78 and 79 the words inter-State migration" in entry 81, and entry 97 shall be omitted;

(iii) for entry 53, the entry "53. Petroleum and Petroleum Produces but excluding the regulation and development of oilfields and "mineral oil resources; other liquids and substances declared by Parliament by law to be dangerously inflammable" shall be substituted; and

(iv) in entries 72 and 76, the reference to the States shall be construed as not including a reference to the State of Jammu and Kashmir.

(b) The State List and the Concurrent List shall be omitted.

(23) EIGHTH SCHEDULE.

(24) NINTH SCHEDULE.

After entry 13, the following entries shall be added, namely:—

"14. The Jammu and Kashmir Big Landed Estates Abolition Act (No. XVII of 2007). -

15. The Jammu and Kashmir Restitution of Mortgaged Properties Act (No. XVI of 2006).

16. The Jammu and Kashmir Tenancy Act (No. II of 1980).

17. The Jammu and Kashmir Distressed Debtors Relief Act (No. XVII of 2006).

18. The Jammu and Kashmir Alienation of Land Act (No. V of 1995).

19. Order No. 6-H of 1951, dated 10th March 1951 regarding Resumption of Jagirs and other assignments of Land Revenue etc.

20. The Jammu and Kashmir State Kuth Act (No. I of 1978).

RAJENDRA PRASAD,
President.

K. Y. BHANDARKAR,
Secretary.

The President's Orders under Article 370

Ministry of Law: New Delhi, the 11 th February, 1956

**Published in the Gazette of India, Extraordinary, Part II
Section 3, No. 27-A, Dated the 17th January, 1958/ Pausa
27, 1879**

S.R.O. 322:—The following order made by the President of India is published for general information.

C.O. 51

The Constitution (Application to Jammu and Kashmir) Order, 1956

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following order:

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1956. (2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in clause (a) under sub-paragraph (22) relating to the Seventh Schedule to the Constitution of India:

- (a) Item (ii), the figures '54' and '67' shall be omitted;
- (b) for Item (iii), the following item shall be substituted,

namely:

'(iii) for entry 67, the entry "67. Ancient and historical monuments, and archaeological sites and remains, declared by Parliament by Law to be of national importance" shall be substituted'.

[No. F. 17(1)/56-G]

Ministry of Law: New Delhi, the 16th January, 1958

**Published in the Gazette of India, Extraordinary, Part II
Section 3, sub-section (1) No. 13, Dated the 27th
February, 1958/Phalguna 8, 1879**

S.R.O. 262-A:—The following order made by the President of India is published for general information.

C.O. 55

The Constitution (Application to Jammu and Kashmir) Order, 1958

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1958.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—

(1) in sub-paragraph (7) (relating to part XII), clauses (a), (b) and (c) shall be re-lettered as clauses (c), (d) and (e), respectively, and before clause (c) as so re-lettered, the

following clauses shall be inserted, namely:—

(a) In Article 269:—(i) in clause (1), after sub-clause (f), the following sub-clause shall be inserted, namely:—(g) taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce; and (ii) after clause (2), the following clause shall be inserted, namely:—` (3) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce'.

(b) In Article 286:— (i) In clause (1), the Explanation shall be omitted; and (ii) for clauses (2) and (3), the following clauses shall be substituted, namely:—

(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

(3) Any law of a State shall, in so far as it imposes, or authorizes the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of Special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.

(2) In sub-paragraph (22) (relating to the Seventh Schedule), in clause (a), after item (iv), the following item shall be inserted, namely:—` (v) after entry 92, the following entry shall be inserted, namely:—`92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.'

Ministry of Law: New Delhi, the 26th February, 1958

Published in the Gazette of India, Extraordinary, Part II

**Section 3 (i), No. 19, Dated the 10th February, 1959/
Magha 21, 1880 Saka**

G.S.R. 78:—The following order made by the President of India is published for general information.

C.O. 56

**The Constitution (Application to Jammu and Kashmir)
Second Amendment Order 1958**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1958.

(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—
 - (1) in the opening portion, after the words 'the Constitution', the words, letters and figures 'as in force on the 15th day of February, 1958' shall be inserted;
 - (2) in sub-paragraph (5) (relating to Part V), clauses (f) and (g) shall be omitted;
 - (3) in sub-paragraph (6) (relating to Part XI), clause (i) shall be omitted, and clause (j) shall be re-lettered as clause (i);
 - (4) in sub-paragraph (7) (relating to Part XII), clauses (a) and (b) shall be omitted, and clauses (c), (d) and (e) shall be re-lettered as clauses (a), (b), (c) respectively;

(5) in sub-paragraph (8) (relating to Part XIII), the brackets and letters '(a)' at the commencement and clause (b) shall be omitted;

(6) in sub-paragraph (9) (relating to Part XIV), the existing modification relating to Article 308 shall be omitted, and in lieu thereof, the following modification shall be inserted, namely:—

'In Article 312, after the words "the States", the brackets and words (including the State of Jammu and Kashmir) shall be inserted';

(7) in sub-paragraph (14) (relating to Part XIX):—

(a) in clause (a), for the word 'Rajpramukh', the word 'Governor' shall be substituted;

(b) clause (c) shall be omitted, and clause (d) shall be re-lettered as clause (c);

(c) in clause (c) as so re-lettered, in new clause (4) of Article 367:-

(i) sub-clause (d) shall be omitted, and sub-clauses (e) and (f) shall be re-lettered as sub-clauses (d) and (e) respectively; (ii) in sub-clause (e) as so re-lettered, for the word 'Rajpramukh', the word 'Governor' shall be substituted;

(8) in clause (a) of sub-paragraph (16) (relating to Part XXI), after the figures '371', the figures and letters '372A' shall be inserted, and for the words and figures 'Articles 376 to 392', the words, figures and letters 'Articles 376 to 378A and 392' shall be substituted;

(9) in sub-paragraph (19) (relating to the Second

Schedule), the modification relating to paragraph 6 shall be omitted;

(10) in sub-paragraph (22) (relating to the Seventh Schedule), for clause (a), the following clause shall be substituted, namely:-` (a) in the Union List:-

(i) for entry 3, the entry "3. Administration of Cantonments" shall be substituted;

(ii) entries 8, 9 and 34 the words "trading corporation including" in entry 43, entries 44, 50, 52, 55 and 60, the words "and records" in entry 67, entries 69, 78 and 79, the words Inter-State migration in entry 81, and entry 97 shall be omitted; and

(iii) in entry 72, the reference to the State shall be construed as not including a reference to the State of Jammu and Kashmir'.

(11) in sub-paragraph (24) (relating to the Ninth Schedule), for the figures '13', '14', '15', '16', '17', '18', '19' and '20', the figures '20', '21', '22', '23', '24', '25', '26' and '27' shall respectively be substituted.

Ministry of Law: New Delhi, the 9th February, 1959

**Published in the Gazette of India, Extraordinary, Part II
Section 3 (i), No. 60, Dated April 23, 1959/ Vaisakha 3,
1881**

G.S.R. 175:-The following order made by the President of India is published for general information.

C.O. 57

The Constitution (Application to Jammu and Kashmir)

Amendment Order, 1959

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:-

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1959.

(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, under sub-paragraph (22) (relating to the Seventh Schedule), in item (ii) of clause (a), the figures '69' shall be omitted.

Ministry of Law: New Delhi, the 23rd April, 1959

**Published in the Gazette of India, Extraordinary, Part II
Section 3 (i), No. 6, Dated January 20, 1960/Pausa 30,
1881**

G.S.R. 513:-The following order made by the President of India is published for general information.

C.O. 59

The Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1959

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:-

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1959.

(2) It shall come into force at once. 2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, under sub-paragraph (4) (relating to the Part III), in clause (d) and in sub-clause (iii) of clause (i), for the word 'five', the word 'ten' shall be substituted.

Ministry of Law: New Delhi, the 20th January, 1960

**Published in the Gazette of India, Extraordinary, Part II
Section 3 (i), No. 80, Dated June 22, 1960/ Asadha 1, 1882**

G.S.R. 98:—The following Order made by the President of India is published for general information.

C.O. 60

The Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1960

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1960.

(2) It shall come into force on the 26th day of January, 1960.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—

(1) in sub-paragraph (5), (relating to Part V), in clause (e), the figures '136' shall be omitted; (2) after sub-paragraph (5), the following shall be inserted, namely:—(5A) Part VI.

(a) Articles 153 to 217, Article 219, Article 221 and Articles 223 to 237 shall be omitted. (b) in Article 220, reference to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu & Kashmir) Amendment Order, 1960. (c) To Article 222, the following new clause shall be added, namely:—

(2) Every such transfer from the High Court of Jammu and Kashmir or to that High Court shall be made after consultation with the Sadar-i-Riyasat;

(3) for sub-paragraph (10) (relating to Part XV), the following shall be substituted, namely:—(10) Part XV. (a) In clause (i) of Article 324, the reference to the Constitution shall, in relation to elections to either House of the Legislature of Jammu and Kashmir, be construed as a reference to the Constitution of Jammu and Kashmir. (b) Articles 325, 326, 327 and 328 shall be omitted. (c) In Article 329, clause (a) shall be omitted, and in clause (b) the reference to a State shall be construed as not including a reference to the State of Jammu and Kashmir.

Ministry of Law: New Delhi, the 22nd June, 1960

**Published in the Gazette of India, Extraordinary, Part II
Section 3 (i), No. 53, Dated May 2, 1961/Vaisakha 12,
1883**

G.S.R. 721:—The following order made by the President of India is published for general information.

C.O. 61

The Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1960

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1960.
- (2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, under sub-paragraph (22) (relating to the Seventh Schedule), in item (ii) of clause (a), the figures '50' shall be omitted.

Ministry of Law: New Delhi, the 2nd May, 1961

**Published in the Gazette of India, Extraordinary, Part II
Section 2, sub-section (i), No. 133, Dated September 25 ,
1963/Asvina 3, 1885**

G.S.R. 633:— The following order made by the President of India is published for general information.

C.O. 62

The Constitution (Application to Jammu and Kashmir) Amendment Order, 1961

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is

pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1961.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, under sub-paragraph 22) (relating to the Seventh Schedule), in item (ii) of clause (a), the figures '52' shall be omitted.

Ministry of Law: New Delhi, the 25th September, 1963

**Published in the Gazette of India, Extraordinary, Part II
Section 3(i), No. 47, Dated March 6, 1964/Phalguna 16,
1885**

G.S.R. 1567:—The following order made by the President of India is published for general information.

C.O. 66

The Constitution (Application to Jammu and Kashmir) Amendment Order, 1963

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1963.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu

and Kashmir) Order, 1954:—

(1) in sub-paragraph (5) (relating to Part V) clause (b) shall be omitted, and clauses (c), (d) and (e) shall be re-lettered as clauses (b), (c) and (d) respectively;

(2) in sub-paragraph (6) (relating to Part XI):—

(a) for clause (a), the following clause shall be substituted, namely:—

(a) in Article 246, for the words, brackets and figures "clauses (2) and (3)" occurring in clause (1), the word, brackets and figure "clause (2)" shall be substituted, and the words, brackets and figure "Notwithstanding anything in clause (3), occurring in clause (2) and the whole of clauses (3) and (4) shall be omitted": (b) clause (f) shall be omitted, and clauses (g), (h) and (i) shall be re-lettered as clauses (f), (g) and (h) respectively;

(3) for sub-paragraph (22) (relating to the Seventh Schedule), the following sub-paragraph shall be substituted, namely:—(22) Seventh Schedule

(a) In the Union List:—(i) for entry 3, entry '3. Administration of cantonments', shall be substituted; (ii) entries 8, 9 and 34 the words 'trading corporations, including' in entry 43, entries 55 and 60, the words 'and records' in entry 67, entries 78 and 79, the words 'inter-State migration' in entry 81, and entry 97 shall be omitted; and (iii) in entry 44, after the words 'but not including universities', the words 'in so far as such corporations relate to the legal and medical professions' shall be inserted; and (iv) in entry 72, the reference to the States shall be construed as not including a reference to the State of Jammu and Kashmir.

(b) The State List shall be omitted.

(c) In the Concurrent List:—(i) for entry 25, the entry '26. Legal and medical professions' shall be substituted; (ii) entries 1 to 25 (both inclusive) and entries 27 to 44 (both inclusive) shall be omitted; and (iii) in entry 45, for the words and figures 'List II or List III, the words "this List" shall be substituted.

S. Radhakrishnan,
President.
(No. F. 19(1) 63-LL)

S.P. Sen Verma,
Spl. Secy.

Ministry of Law: New Delhi, the 6th March, 1964

**Published in the Gazette of India, Extraordinary, Part II
Section 3(1), No. 196, Dated December 21,
1964/Agrahayana 30, 1886**

G.S.R. 422:—The following order made by the President of India is published for general information.

C.O. 69

The Constitution (Application to Jammu and Kashmir) Amendment Order, 1964

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1964.

- (2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—
- (1) In sub-paragraph (4) (relating to Part III). In clause (d) and in sub-clause (iii) of clause (i), for the words 'ten years', the words 'fifteen years' shall be substituted;
- (2) in sub-paragraph (22) (relating to the Seventh Schedule), for clause (c), the following clause shall be substituted, namely:—
- (c) in the Concurrent List:—
- (i) for entry 1, the following entry shall be substituted, namely:— '1. Criminal law (excluding offences against laws with respect to any of the matters specified in List I and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power) in so far as such criminal law relates to offences against laws with respect to trade and commerce in, and the production, supply and distribution and price control of gold'.
- (ii) in entry 24, after the words 'and maternity benefits', the words 'but only with respect to labour employed in the coal-mining industry' shall be inserted.
- (iii) for entry 26, the entry '26. Legal and medical professions', shall be substituted.
- (iv) for entry 33, the following entry shall be substituted, namely:—
- '33. Trade and commerce in and the production, supply and distribution of the products of any industry by the Union is declared by Parliament by law to be expedient in the Public interest in so far as such industry relates to gold, and imported goods of the same kind as such products'.

(v) for entry 34, the entry '34. Price Control of gold', shall be substituted;

(vi) entries 2 to 23 (both inclusive), entry 25, entries 27 to 32 (both inclusive) and entries 35 to 44 (both inclusive) shall be omitted; and

(vii) in entry 45, for the words and figures 'List II or List III', the words 'this List' shall be substituted.

The Constitution (Application to Jammu and Kashmir), Second Amendment Order, 1964

C.O. 70

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1964.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (22) (relating to the Seventh Schedule):—

(1) in item (ii) of clause (a), for the words and figures 'entries 55 and 60', the word and figures 'entry 60' shall be substituted;

(2) in clause (c):—(a) for item (i), the following shall be substituted, namely:—

1. Criminal law (excluding offences against laws with

respect to laws with respect to any of the matters specified in List I and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power) in so far as such criminal law relates to offences against laws with respect to any of the matters specified in this List.

(b) items (iv) to (vii) shall be renumbered as (v) to (viii) respectively and before item (v) as so renumbered, the following shall be inserted, namely: '(iv) for entry 30, the entry "30. Vital statistics in so far as they relate to births and deaths including registration of births and deaths" shall be substituted';

(c) for item (vii) as so re-numbered, the following shall be substituted, namely:—(vii) entries 2 to 23 (both inclusive), entries 27, 28, 29, 31 and 32, entries 35 to 38 (both inclusive) and entries 40 to 44 (both inclusive) shall be omitted; and.

S. Radhakrishnan,

President.

R.C.S. Sarkar, Secy.

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Ministry of Law: New Delhi, the 21st December, 1964

**Published in the Gazette of India, Extraordinary, Part II
Section 3 (i), No. 70, Dated May 17, 1965/ Vaisakha 27,
1887**

G.S.R. 1839:—The following order made by the President of India is published for general information.

**The Constitution (Application to Jammu and Kashmir)
Third Amendment Order, 1964**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Third Amendment Order, 1964.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (13) (relating to Part)(VIII), for clause (b), the following clauses shall be substituted, namely:— '(b) in clause (1) of Article 356, references to provisions or provision of this Constitution shall, in relation to the State of Jammu and Kashmir, be construed as including references to provisions or provisions of the Constitution of Jammu and Kashmir. (c) Article 360 shall be omitted'.

Ministry of Law: New Delhi, the 17th May, 1965

G.S.R. 744:—The following order made by the President of India is published for general information.

C.O. 72

The Constitution (Application to Jammu and Kashmir) Amendment Order, 1965

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution

(Application to Jammu and Kashmir) Amendment Order, 1965.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (22) (relating to the Seventh Schedule):—

(1) in clause (a), for item (ii), the following shall be substituted, namely:—` (ii) entries 8, 9, 34 and 60, the words "and records" in entry 67, entry 79, the words "Inter-State migration" in entry 81, and entry 97 shall be omitted'.

(2) in clause (c):—(a) items (v) and (vi) shall be omitted; (b) items (vii) and (viii) shall be renumbered as items (v) and (vi) respectively; (c) for item (v) as so re-numbered, the following shall be substituted, namely:—` (v) entries 2 and 3, entries 5 to 10 (both inclusive), entries 12 to 23 (both inclusive), entries 27, 28, 29, 31, 32, 36, 37 and 38 and entries 40 to 44 (both inclusive) shall be omitted; and'.

Ministry of Law: New Delhi, the 24th November, 1965

G.S.R. 1757:—The following order made by the President of India is published for general information.

C.O. 74

The Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1965

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1965.

(2) It shall come into force at once. 2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—

(1) in the opening portion, for the words, figures and letters 'as in force on the 15th day of February, 1958', the words, figures and letters 'as in force on the 20th day of June, 1964' shall be substituted;

(2) in sub-paragraph (5A) (relating to Part VI) for clause (c), the following clause shall be substituted, namely:—(c) in Article 222, after clause (1), the following new clause shall be inserted, namely:—'(1A) Every such transfer from the High Court of Jammu and Kashmir or to that High Court shall be made after consultation with the Governor';

(3) in sub-paragraph (14) (relating to Part)XIX):—(a) clause (a) shall be omitted; (b) clauses (b) and (c) shall be re-lettered as clauses (a) and (b) respectively; (c) in clause (b) as so re-lettered, in clause (4) of Article 367:—

(i) for sub-clause (b) the following sub-clauses shall be substituted, namely:—

(aa) references to the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the *Sadar-i-Riyasat* of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office shall be construed as references to the Governor of Jammu and Kashmir.

(b) references to the Government of the said State shall

be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers:— Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers;

(ii) for sub-clause (e), the following sub-clause shall be substituted, namely:—

(e) references to a Governor shall include references to the Governor of Jammu and Kashmir:— Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as references to the person recognised by the President as the Sadar-i-Riyasat of Jammu and Kashmir and as including references to any person recognised by the President as being competent to exercise the powers of the Sadar-i-Riyasat;

(4) in sub-paragraph (16) (relating to Part)XI), in clause (a); after the figures '371', the figures and letters '371 A', shall be inserted;

(5) in sub-paragraph (22) (relating to the Seventh Schedule):—(i) in clause (a):—

(a) in item (ii), the word 'add' shall be added at the end;

(b) item (iii) shall be omitted;

(c) item (iv) shall be re-numbered as item (iii);

(ii) in clause (c):—

(a) items (ii) and (iii) shall be omitted;

(b) items (iv), (v) and (vi) shall be re-numbered as items (ii), (iii) and (iv) respectively;

(c) in item (iii) as so re-numbered:—

(A) for the words, figures and brackets 'entries 12 to 23 (both inclusive)', the words, figures and brackets 'entries 12 to 21 (both inclusive)' shall be substituted;

(B) the figures '36', shall be omitted;

(6) for sub-paragraph (24) (relating to the Ninth Schedule); the following sub-paragraph shall be substituted, namely:— '(24) Ninth-schedule

After entry 64, the following entries shall be added, namely:—

"65. The Jammu and Kashmir State Kuth Act (No. 1 of Svt. 1978)".

66. The Jammu and Kashmir Tenancy Act (No. 11 of Svt. 1980).

67. The Jammu and Kashmir Alienation of Land Act (No. V of Svt. 1995).

68. The Jammu and Kashmir Restitution of Mortgaged Properties Act (No. XVI of Svt. 2006).

69. The Jammu and Kashmir Distressed Debtors Pd. Act (No. XVII of Svt. 2006)..

70. The Jammu and Kashmir Big Landed Estates Abolition Act (No. XVII of Svt. 2007).

71. Order No. 6-H of 1951, dated 10th March, '95 regarding Resumption of Jagirs and other Amendments of Land Revenue, etc.

S. Radhakrishnan
President

R.C.S Sarkar
Secretary to Government of India

Government of Jammu and Kashmir
(Law Department)

Published for general information
IN Matoo, Secretary to Government

C.O. 75

The Constitution (Application to Jammu and Kashmir)
Amendment Order, 1966

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1966.
- (2) It shall come into force at once. 2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—
 - (1) In sub-paragraph (5) (relating to Part V), for clauses (a) and (b), the following clauses shall respectively be substituted, namely:—
 - (a) For the purposes of Article 55, the population of the State of Jammu and Kashmir shall be deemed to be forty-four lakhs and ten thousand.
 - (b) In Article 81, for clauses (2) and (3), the following clause shall be substituted, namely:—
 - (2) For the purposes of sub-clause (a) of clause (1):—(a) there shall be allotted to the State six seats in the House of the People; (b) the State shall be divided into single

member territorial constituencies by the Delimitation Commission constituted under the Delimitation Commission Act, 1962, in accordance with such procedure as the commission may deem fit; (c) the constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; (d) the constituencies into which the State is divided shall not comprise the area under the occupation of Pakistan; and (e) until the dissolution of the existing House of People, the representatives of the State in that House shall be appointed by the President on the recommendation of the Legislature of the State.

- (2) in sub-paragraph (10) (relating to Part XV), for clauses (b) and (c) the following clauses shall be substituted, namely:— (b) In Article 325, 326, 327 and 329, the reference to a State shall be construed as not including a reference to the State of Jammu and Kashmir.
- (c) Article 328 shall be omitted.
- (d) In Article 329 the words and figures 'or Article 328' shall be omitted.

S. Radhakrishnan,

President.

(No. E 19(1)/66.LL)

S.P. Sen Verma, Secretary.

GOVERNMENT OF JAMMU AND KASHMIR
(LAW DEPARTMENT)

Published for general information.

(Sd/.) Muftibaha-Ud-Din, Secretary to Government.

Ministry of Law: New Delhi, the 13th February, 1967

G.S.R. 192:—The following order made by the President of India is published for general information.

C.O. 76

**The Constitution (Application to Jammu and Kashmir)
Amendment Order, 1967**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1967.
- (2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in the opening portion after the words, figures and letters 'as in force on the 20th day of June, 1964', the words, brackets and figures 'and as amended by the Constitution (Nineteenth Amendment) Act, 1966' shall be inserted.

S. Radhakrishnan,

President.

(No. P. 19(2)167 ID)

S.P. Sen Verma

Secretary.

GOVERNMENT OF JAMMU AND KASHMIR
(LAW DEPARTMENT)

Published for general information.

(Sd/-) G.N. Shora, Under Secretary to Government.

Ministry of Law: New Delhi, the 5th May, 1967

G.S.R. 661:—The following order made by the President of India is published for general information.

C.O. 77

**The Constitution (Application to Jammu and Kashmir)
Second Amendment Order, 1967**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1967.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (22) (relating to the Seventh Schedule), in item (iii) of clause (c) for the words, figures and brackets 'entries 12 to 21 (both inclusive), entries' the words, figures and brackets 'entries 12 to 18 (both inclusive), entries 20, 21,' shall be substituted.

S. Radhakrishnan,
President.

(No. F. 19(3)/66 LI)
S.P. Sen Verma,
Secretary.

**GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT LAW DEPARTMENT**

Published for general information.

(Sd/-) A.R. Khajuria, Under Secretary to Government.

Law Department.

Ministry of Law: New Delhi, the 11th August, 1967

G.S.R. 1235:—The following order made by the President of India is published for general information.

C.O. 79

**The Constitution (Application to Jammu and Kashmir)
Third Amendment Order, 1967**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Third Amendment Order, 1967.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in the opening portion, after the words, brackets and figures 'the Constitution (Nineteenth Amendment) Act, 1966', the words, brackets and figures 'and the Constitution (Twenty-first Amendment) Act, 1967', shall be inserted.

Zakir Husain,

President.

(No. F. 19(6)167-LI)

S.P. Sen Verma, Secretary.

**GOVERNMENT OF JAMMU AND KASHMIR
(LAW DEPARTMENT)**

Published for general information.

(Sd/-) B.N. Sharma, Under Secretary to Government.

Ministry of Law: New Delhi, the 26th December, 1967

G.S.R. 1933:—The following order made by the President of India is published for general information.

C.O. 80

**The Constitution (Application to Jammu and Kashmir)
Fourth Amendment Order, 1967**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Fourth Amendment Order, 1967.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (22) (relating to the Seventh Schedule), in item (iii) of clause (c), for the words, figures and brackets 'entries 12 to 18 (both inclusive), entries', the words, figures and brackets 'entries 12 to 15 (both inclusive), entries 17' shall be substituted.

Zakir Husain,

President.

(No. F. 19(10)/67-LI)

V.N. Bhatia

Secretary.

**GOVERNMENT OF JAMMU AND KASHMIR
(LAW DEPARTMENT)**

Published for general information.

(Sd/-) B.N. Sharma, Under Secretary to Government.

Ministry of Law: New Delhi, the 9th February, 1968

G.S.R. 282:—The following order made by the President of India is published for general information.

C.O. 83

**The Constitution (Application to Jammu and Kashmir)
Amendment Order, 1968**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1968.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (22) (relating to the Seventh Schedule), for item [...] of clause (a), the following item shall be substituted, namely:— (iii) in entry 72, the reference to the States shall be construed:— (a) in relation to appeals to the Supreme Court from any decision or order of the High Court of the State of Jammu and Kashmir made in an election petition whereby an election to either House of the Legislature of that State has been called in question, as including a reference to the

State of Jammu and Kashmir; (b) in relation to other matters, as not including a reference to that State.

Zakir Husain,

President.

(No. F.19(2)167-L1)

V.N. Bhatia,

Secretary.

**GOVERNMENT OF JAMIMU AND KASHMIR
(CIVIL SECRETARIAT LAW DEPARTMENT)**

Published for general information.

(Sd/-) B.N. Sharma, Under Secretary to Government.

Ministry of Law: New Delhi, the 17th February, 1969

G.S.R. 303:—The following order made by the President of India is published for general information.

C.O. 85

**The Constitution (Application to Jammu and Kashmir)
Amendment Order, 1969**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:--

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1969.
- (2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954.

(1) in sub-paragraph (6) (relating to Part XI), for clause (6), the following clauses shall be substituted, namely:—

(b) For Article 248, the following Article shall be substituted, namely:—

248. Residuary powers of Legislation:—Parliament has exclusive power to make any law with respect to prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution.

(bb) Article 249 shall be omitted;

(2) in sub-paragraph (22) (relating to the Seventh Schedule), in clause (a):—

(a) for item (ii), the following item shall be substituted, namely:— (ii) entries 8, 9, 34 and 60, the words 'and records' in entry 67, entry 79 and the words 'Inter-State migration' in entry 81 shall be omitted;

(b) in item (iii), the word 'and' shall be added at the end;

(c) after item (iii), the following item shall be inserted, namely:— (iv) for entry 97, the following entry shall be substituted, namely:— 97. Prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the

Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution.

Zakir Husain,

President.

(No. F. 19(10)169-LI)

V.N. Bhatia

Secretary.

GOVERNMENT OF JAMMU AND KASHMIR

(LAW DEPARTMENT)

Published for general information.

(Sd/-) Ghulam Shah, Additional Under Secretary to Government, Law Department.

Ministry of Law: New Delhi, the 31st March, 1969

C.O. 86

The Constitution (Application to Jammu and Kashmir)

Second Amendment Order, 1969

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order.

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1969.

(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, under sub-paragraph (4) (relating to the Part III), in clause (d) and in sub-clause

(iii) of clause (i), for the word 'fifteen', the word 'twenty' shall be substituted.

Zakir Husain,
President.

**GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT LAW DEPARTMENT)**

Published for general information.

(Sd/-) G.M. Thakur, Under Secretary to Government
Law Department.

Ministry of Law: New Delhi, the 24th August, 1971

G.S.R. 1218:—The following order made by the President of India is published for general information.

C.O. 89

**The Constitution (Application to Jammu and Kashmir)
Amendment Order, 1971**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1971.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—
 - (1) in the opening portion for the words, brackets and figures 'and the Constitution (Twenty-first Amendment)

Act, 1967', the words, brackets and figures, 'the Constitution (Twenty-first Amendment) Act, 1967 and Section 5 of the Constitution (Twenty-third Amendment) Act, 1969' shall be substituted.

(2) in sub-paragraph (4) (relating to Part III), for clause (h), the following clause shall be substituted, namely:—` (h) in Article 32, clause (3) shall be omitted.';

(3) in sub-paragraph (5A) (relating to Part VI), for clause (a), the following clause shall be substituted, namely:—(a) Articles 153 to 217, Article 219, Article 221, Articles 223, 224, 224A and 225 and Articles 227 to 237 shall be omitted.

V.V. Giri,
President.

(No. F. 19(8)/70-LI)

N.D.P. Namboodiripad
Joint Secretary

Ministry of Law: New Delhi, the 8th November, 1971

C.O. 90

Assented on: 5th November, 1971.

**The Constitution (Application to Jammu and Kashmir)
Second Amendment Order, 1971**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1971.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (22) (relating to the Seventh Schedule), in item (iii) of clause (c), for the words, figures and brackets 'and 38, and entries 40 to 44 (both inclusive)' the words and figures '38, 40, 41, 42 and 44' shall be substituted.

V.V. Giri,
President.

N.D.P. Namboodiripad
Joint Secretary to the Govt. of India.

GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman.

**Ministry of Law and Justice: New Delhi, the 29th
November, 1971**

C.O. 91

**The Constitution (Application to Jammu and Kashmir)
Third Amendment Order, 1971**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Third Amendment Order, 1971.

- (2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:
- (1) in the opening portion for the words, figures and brackets 'and Section 5 of the Constitution (Twenty-third Amendment) Act, 1969', the words, figures and brackets, 'Section 5 of the Constitution (Twenty-third Amendment) Act, 1969 and the Constitution (Twenty-fourth Amendment) Act, 1971' shall be substituted. (2) in sub-paragraph (15) (relating to Part XX), for the words and figures 'To Article 368', the words, brackets and figures 'To clause (2) of Articles 368' shall be substituted.

VV. Giri,
President.

GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,
Law Department.

**Ministry of Law and Justice: New Delhi, the 24th
February, 1972**

G.S.R. 90(E):—The following order made by the President of India is published for general information.

C.O. 92

**The Constitution (Application to Jammu and Kashmir)
Amendment Order, 1972**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1972.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (22) (relating to the Seventh Schedule), in item (ii) of clause (a), for the figures and words, '34 and 60', the words and figures 'and 34' shall be substituted.

V.V. Giri,
President.

(No. F. 19(7)/71-LL.I)

N.D.P. Namboodiripad,
Joint Secretary to the Govt. of India.

Ministry of Law and Justice: New Delhi, the 6th May, 1972

C.O. 93

The Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1972

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution

(Application to Jammu and Kashmir) Second Amendment Order, 1972.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—

(1) in sub-paragraph (6) (relating to the Part XI), for clause (b), the following clause shall be substituted, namely:—

(b) For Article 248, the following Article shall be substituted, namely:—`248. Residuary powers of Legislation: Parliament has exclusive power to make any law with respect to:—

(a) Prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution; and (c) taxes on:—(i) foreign travel by sea or air; (ii) inland air travel; (iii) postal articles, including money orders, phonograms and telegrams.

(2) in sub-paragraph (22) (relating to the Seventh Schedule), in clause (a), for item (iv), the following item shall be substituted, namely:—'(iv) for entry 97, the following entry shall be substituted, namely:—

97. Prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution; taxes on foreign travel by sea or air, on

inland air travel and on postal articles including money orders, phonograms and telegram.

V.V. Giri,
President.

GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,
Law Department.

Ministry of Law and Justice: New Delhi, the 1st August, 1972

C.O. 94

**The Constitution (Application to Jammu and Kashmir)
Third Amendment Order, 1972**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Third Amendment Order, 1972.

(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—

(1) in the opening portion for the words, brackets and figures, 'and the Constitution (Twenty-fourth

Amendment) Act, 1971', the words, brackets and figures, 'the Constitution (Twenty-fourth Amendment) Act, 1971 and the Constitution (Twenty-sixth Amendment) Act, 1971' shall be substituted;

(2) in sub-paragraph (7) (relating to Part XII), in clause (a), for the words and figures, Articles 290 and 291', the words and figures 'and Article 290' shall be substituted;

(3) in sub-paragraph (14) (relating to Part XIX), in clause (a), for the words and figures, 'Articles 362 and 365', the word and figures Article 365' shall be substituted;

(4) in sub-paragraph (22) (relating to the seventh Schedule) in clause (c):—

(a) after sub-clause (i), the following sub-clauses shall be inserted, namely:—

(i-a) for entry 2, the entry '2. Criminal Procedure in so far as it relates to administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country' shall be substituted;

(i-b) for entry 12, the entry '12. Evidence and oaths in so far as they relate to administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country' shall be substituted;

(i-c) for entry 13, the entry '13. Civil Procedure in so far as it relates to administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country' shall be substituted;

(h) in sub-clause (iii):—

(i) for the words and figures 'entries 2 and 3' the word and figure 'entry 3', shall be substituted;

(ii) for the words, figures and brackets 'entries 12 to 15 (both inclusive), entries 17', the words and figures 'entries 14, 15, 17' shall be substituted.

V.V. Giri,
President.

(Sd/-) K.K. Sundaram,
Joint Secretary to the Government of India.

**GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT LAW DEPARTMENT)**

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,
Law Department.

**Ministry of Law and Justice: New Delhi, the 10th
August, 1972**

C.O. 95

**The Constitution (Application to Jammu and Kashmir)
Fourth Amendment Order, 1972**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Fourth Amendment Order, 1972.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (22)

(relating to the Seventh Schedule):—(j) in sub-clause (ii) of clause (a), the words and figures 'the words "and records" in entry 67' shall be omitted; (ii) in clause (c) for sub-clause (iii), the following sub-clauses shall be substituted, namely:—

(viii) entry 3, entries 5 to 10 (both inclusive), entries 14, 15, 17, 20, 21, 27, 28, 29, 31, 32, 37, 38, 41 and 44 shall be omitted;

(iii-a) for entry 42, for entry '42. Acquisition and requisitioning of property, so far as regards acquisition of any property covered by entry 67 of List III or entry 40 of List III or of any human work of art which has artistic or aesthetic value', shall be substituted; and.

V.V. Giri,

President.

(Sd/-) K.K. Sundaram,

Joint Secretary to the Government of India.

**GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT LAW DEPARTMENT)**

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,

Bangroo

**Ministry of Law, Justice and Company Affairs: New
Delhi, the 1st May, 1974**

Published in the Gazette of India, Extraordinary, dated May 22, 1974/ 1st Jyai., 1896

The following Order made by the President is published for general information:—

C.O. 97

The Constitution (Application to Jammu and Kashmir) Amendment Order, 1974

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1974.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, under sub-paragraph (4) (relating to Part III), in clause (d) and in sub-clause (iii) of clause (i), for the word 'twenty', the word 'twenty-five' shall be substituted.

V.V. Giri,
President.

K.K. Sundaram,
Secretary.

GOVERNMENT OF JAMMU AND KASHMIR (CIVIL SECRETARIAT LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman.

**Ministry of Law and Justice: New Delhi, the 26th June,
1974**

Published in the Gazette of India, Extraordinary, dated July 10, 1974/ 19th Asad., 1896.

G.S.R. 280 (E):—The following Order made by the President is published for general information:

C.O. 98

The Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—
 - (i) in the opening portion for the words, brackets and figures, 'and the Constitution (Twenty-sixth Amendment) Act, 1971', the words, brackets and figures, 'the Constitution (Twenty-sixth Amendment) Act, 1971, the Constitution (Thirtieth Amendment) Act, 1972 and Section 2 of the Constitution (Thirty-first Amendment) Act 1973' shall be substituted.
 - (ii) in sub-paragraph (5) (relating to Part V), for clauses (a) and (b), the following clauses shall respectively be substituted, namely:—
 - (a) For the purposes of Article 55, the population of the State of Jammu and Kashmir shall be deemed to be sixty three lakhs;
 - (b) In Article 81, for clauses (2) and (3), the following clauses shall be substituted, namely:—
 - (2) For the purposes of sub-clause (a) of clause (1):—
 - (a) there shall be allotted to the State six seats in the House of the People;

(b) the State shall be divided into single-member territorial constituencies by the Delimitation Commission constituted under the Delimitation Act, 1972, in accordance with such procedure as the Commission may deem fit;

(c) the constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features existing boundaries of administrative units, facilities of communication and public convenience; and

(d) the constituencies into which the State is divided shall not comprise the area under the occupation of Pakistan.

(3) Nothing in clause (2) shall affect the representation of the State in the House of the People until the dissolution of the House existing on the date of publication in the Gazette of India of the final order or orders of the Delimitation Commission relating to delimitation of parliamentary constituencies under the Delimitation Act, 1972.

(4) (a) The Delimitation Commission shall associate with itself for the purpose of assisting it in its duties in respect of the State, five persons who shall be members of the House of the People representing the State.

(b) The persons to be so associated from the State shall be nominated by the Speaker of the House of the People having due regard to the composition of the House.

(c) The first nominations to be made under sub-clause (b) shall be made by the Speaker of the House of the People within two months from the commencement of the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974.

(d) None of the associate members shall have a right to

vote or to sign any decision of the Delimitation Commission. (e) If owing to death or resignation, the office of an associate member falls vacant, it shall be filled as soon as may be practicable by the Speaker of the House of the People and in accordance with the provisions of sub-clauses (a) and (b).

(iii) in sub-paragraph (5) (relating to Part V), clauses (c) and (d) shall be re-lettered as clauses (d) and (e) respectively and before clause (d) as so re-lettered, the following clause shall be inserted, namely:—` (c) in Article 133, after clause (!), the following clause shall be inserted, namely:—

(1A) The provisions of Section 3 of the Constitution (Thirtieth Amendment) Act, 1972, shall apply in relation to the State of Jammu and Kashmir subject to the modification that references therein to 'this Act' the commencement of this Act', 'this Act had not been passed' and 'as amended by this Act' shall be construed respectively as references to 'the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974', 'the commencement of the said Order', the said Order had not been made' and 'as it stands after the commencement of the said Order'.

(iv) in sub-paragraph (24) (relating to the Ninth Schedule), entries 65, 66, 67, 68, 69, 70 and 71 shall be renumbered as entries 64A, 64B, 64C, 64D, 64E, 64F and 64G respectively.

V.V. Giri,
President.

[No. F. 19(4)/74-LI]

S. Harihara Iyer,
Joint Secretary.

GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,
Law Department.

**Ministry of Law, Justice and Company Affairs: New
Delhi, the 29th June, 1975**

Published in the Gazette of India, Extraordinary, dated July
11th, 1975/Asad. 20, 1897

G.S.R. 365 (E): The following Order made by the President is
published for general information:

C.O. 100

**The Constitution (Application to Jammu and Kashmir)
Amendment Order, 1975**

In exercise of the powers conferred by clause (1) of Article
370 of the Constitution, the President, with the concurrence
of the Government of the State of Jammu and Kashmir, is
pleased to make the following Order:—

1. (1) This Order may be called the Constitution
(Application to Jammu and Kashmir) Amendment
Order, 1975.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to
Jammu and Kashmir) Order, 1954, in clause (a) of sub-
paragraph (13) (relating to Part XVIII), in clause (4) of
Article 352, for the words 'unless it is made at the request
or with the concurrence of the Government of that

State', the following shall be substituted, namely:—

'unless:—(a) it is made at the request or with the concurrence of the Government of that State, or (b) where it has not been so made, it is applied subsequently by the President of that State at the request or with the concurrence of the Government of that State'.

F.A. Ahmed,
President.

**GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT, LAW DEPARTMENT)**

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,
Law Department.

**Ministry of Law, Justice and Company Affairs: New
Delhi, the 23rd July, 1975**

Published in the Gazette of India, Extraordinary, dated July
30, 1975 8th Srav., 1897

C.O. 101

**The Constitution (Application to Jammu and Kashmir)
Second Amendment Order, 1975**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second

Amendment Order, 1975.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (15) (relating to Part XX), the existing modification relating to clause (2) of Article 368 shall be re-numbered as clause (a) of that sub-paragraph and after that clause as so renumbered, the following clause shall be inserted, namely:—` (b) After clause (3) of Article 368, the following shall be added, namely:—

(4) No law made by the Legislature of the State of Jammu and Kashmir seeking to make any change in or in the effect of any provision of the Constitution of Jammu and Kashmir relating to:—(a) appointment, powers, functions, duties, emoluments, allowances, privileges or immunities of the Governor; or (b) superintendence, direction and control of elections by the Election Commission of India, eligibility for inclusion in the electoral rolls without discrimination, adult suffrage and composition of the Legislative Council, being matters specified in Sections 138, 139, 140 and 50 of the Constitution of Jammu and Kashmir. Shall have any effect unless such law has, after having been reserved for the consideration of the President, received his assent.'

Fakhruddin Ali Ahmed,
President.

K.K. Sundaram,
Secretary to the Govt. of India.

GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT, LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,
Law Department.

**Ministry of Law, Justice and Company Affairs: New
Delhi, the 22nd March, 1976**

Published in the Gazette of India, Extraordinary, dated
March 25th, 1976/5th Chai., 1898

C.O. 103

**The Constitution (Application to Jammu and Kashmir)
Amendment Order, 1976**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1976.

(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in the opening portion, for the words, figures and brackets 'and Section 2 of the Constitution (Thirty-first Amendment) Act, 1973', the words, figures and brackets 'Section 2 of the Constitution (Thirty-first Amendment) Act, 1973 and

Section 2 of the Constitution (Thirty-third Amendment) Act, 1974' shall be substituted.

Fakhruddin Ali Ahmed,
President.

[No. F. 19(1)/76-LI]

K.K. Sundaram,
Secretary to the Govt. of India.

GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT, LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,
Law Department.

Ministry of Law and Justice: New Delhi, the 25th May, 1976

Published in the Gazette of India, Extraordinary, dated June 15, 1976/ 25th Jyai., 1898

C.O. 104

**The Constitution (Application to Jammu and Kashmir)
Second Amendment Order, 1976**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second

Amendment Order, 1976.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—(i) in the opening portion, for the words, figures and brackets 'and Section 2 of the Constitution (Thirty-third Amendment) Act, 1974', the words, figures and brackets, 'Section 2 of the Constitution (Thirty-third Amendment) Act, 1974, and Sections 2, 5, 6 and 7 of the Constitution (Thirty-eighth Amendment) Act, 1975' shall be substituted. (ii) in clause (a) of sub-paragraph (13) (relating to Part XVIII), in new clause (4) of Article 352, for the brackets and figures '(4)', the brackets and figures '(6)' shall be substituted.

Fakhruddin Ali Ahmed,
President.

K.K. Sundaram,
Secretary to the Govt. of India.

GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT, LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,
Law Department.

Ministry of Law and Justice: New Delhi, the 12th
October, 1976

Published in the Gazette of India, Extraordinary, dated
October 12, 1976/20th Arvina, 1898

C.O. 105

The Constitution (Application to Jammu and Kashmir) Third Amendment Order, 1976

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Third Amendment Order, 1976.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—

(1) in the opening portion, for the words, figures and brackets 'and Sections 2, 5, 6 and 7 of the Constitution (Thirty-eighth Amendment) Act, 1975', the words, figures and brackets 'Sections 2, 5, 6 and 7 of the Constitution (Thirty-eighth Amendment) Act, 1975, and the Constitution (Thirty-ninth Amendment) Act, 1975' shall be substituted;

(2) in sub-paragraph (10) (relating to Part)(V), after clause (d), the following clause shall be inserted, namely:—'(e) In Article 329A, clauses (4) and (5) shall be omitted'.

(3) in sub-paragraph (24) (relating to the Ninth Schedule), the existing modification shall be numbered as clause (a) of the sub-paragraph and the following shall be inserted as clause (b), namely:—

`(b) Entries 87 to 424, inserted by the Constitution

(Thirty-ninth Amendment) Act, 1975, shall be re-numbered as entries 65 to 102 respectively'.

Fakhruddin Ali Ahmed,

President.

11th October, 1976

(Sd/-) S. Harihara Iyer,

Joint Secretary.

GOVERNMENT OF JAMMU AND KASHMIR

(CIVIL SECRETARIAT, LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Assistant Legal Draftsman,
Law Department.

**Ministry of Law and Justice: New Delhi, the 31st
December, 1976**

Published in the Gazette of India, Extraordinary, dated 2nd
February, 1977/3rd Magha, 1898

C.O.106

**The Constitution (Application to Jammu and Kashmir)
Fourth Amendment Order, 1976**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Fourth Amendment Order, 1976.

- (2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954, in sub-paragraph (24) (relating to the Ninth Schedule), in clause (a):
- (1) entries 64D and 64E shall be omitted and entries 64F and 64G shall be renumbered as entries 64D and 64E, respectively;
- (2) after entry 64E as so renumbered, the following entries shall be inserted, namely:—
- '64E The Jammu and Kashmir Restitution of Mortgaged Properties Act, 1976 (Act XIV of 1976).
- 64G. The Jammu and Kashmir Debtor's Relief Act, 1976 (Act XV of 1976)'.

Fakhruddin All Ahmed,
President.

(Sd/-) K.K. Sundaram,
Secretary to the Government of India.

**GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT, LAW DEPARTMENT)**

Published for general information.

(Sd/-) G.A. Khan, Officer Incharge Codification,
Law Department.

**Ministry of Law and Justice: New Delhi, the 31st
December, 1977**

Published in the Gazette of India, Extraordinary, dated
March 11, 1978/20th Phal., 1899

G.S.R. 796(E):—The following Order made by the President
is published for general information.

C.O. 108

The Constitution (Application to Jammu and Kashmir) Amendment Order, 1977

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1977.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—
 - (1) in the opening portion:—(a) after the words, brackets and figures 'the Constitution (Twenty-fourth Amendment) Act, 1971', the words, figures and brackets, Section 2 of the Constitution (Twenty-fifth Amendment) Act, 1971', shall be inserted; (b) for the words, brackets and figures and the Constitution (Thirty-ninth Amendment) Act, 1975, the words, brackets and figures, 'the Constitution (Thirty-ninth Amendment) Act, 1975 and the Constitution (Fortieth Amendment) Act, 1976' shall be substituted;
 - (2) in sub-paragraph (24) (relating to Ninth Schedule); after clause (b), the following clause shall be inserted, namely:— 'Entries 125 to 188 shall be re-numbered as Articles 103 to 166 respectively'.

N. Sanjiva Reddy,
President.

[No. F. 19(1)177-LI]

(Sd/-) S. Harihara Iyer,
Joint Secretary.

GOVERNMENT OF JAMMU AND KASHMIR
(CIVIL SECRETARIAT, LAW DEPARTMENT)

Published for general information.

(Sd/-) G.A. Khan, Officer Incharge Codification,
Law Department.

**Ministry of Law and Justice: New Delhi, the 4th June,
1985. No. 234**

Published in the Gazette of India, Extraordinary, Part II,
Section 3 (i)

G.S.R. 481(E):—The following Order made by the President
is published for general information:

C.O. 122

**The Constitution (Application to Jammu and Kashmir)
Amendment Order, 1985**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1985.
(2) It shall come into force at once.
2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—
 - (1) in clause (b) of sub-paragraph (6), in Article 248:—
 - (i) clause (a) shall be re-lettered as clause (aa) and in that clause as so re-lettered, for the words 'prevention of

activities', the words 'prevention of other activities' shall be substituted;

(ii) before clause (aa) as so re-lettered, the following clause shall be inserted, namely:— '(a) prevention of activities involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people of adversely affecting the harmony amongst different sections of the people'.

(iii) the following Explanation shall be inserted at the end, namely:—

'Explanation: In this Article, 'terrorist act' means any act or thing by using bombs, dynamite or other explosive substances or in-flammable substances or firearms or other lethal weapons or poi-sons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature'.

(2) in sub-paragraph (22):—

(i) in sub-clause (iv) of clause (a) (relating to the Union List), for entry 97, the following entry shall be substituted, namely:—

'97. Prevention of activities:—(a) involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people of adversely affecting the harmony amongst different sections of the people;

(b) directed towards disclaiming, questioning or disrupting the sov-ereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India

from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution; taxes on foreign travel by sea or air, on inland air travel and on postal articles, including money orders, phonograms and telegrams.

Explanation: In this entry, 'terrorist act' has the same meaning as in the Explanation to Article 248'. (ii) in clause (c) (relating to the Concurrent List), for sub-clauses (ia) and (ib), the following sub-clauses shall be substituted, namely:—

'(ia) for entry 2, the following entry shall be substituted, namely:—

'2. Criminal Procedure (including prevention of offences and Constitution and organization of criminal courts, except the Supreme Court and the High Court) in so far as it relates to:—(i) offences against laws with respect to any matters being matters with respect to which parliament has power to make laws; and (ii) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country';

(ib) for entry 12, the following entry shall be substituted, namely:— '12. Evidence and oaths in so far as they relate to:— (i) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country; and (ii) any other matters being matters with respect to which the Parliament has power to make laws'.

Zail Singh,
President.

[No. E 19(4)/85-LI]

R.V.S. Peri Sastri,
Secretary.

**Ministry of Law and Justice: New Delhi, the 4th
December, 1985**

Published in the Gazette of India, Extraordinary, Part II

G.S.R. 881(E):—The following Order made by the President is published for general information:

C.O. 124

**The Constitution (Application to Jammu and Kashmir)
Second Amendment Order 1985**

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1985.

(2) It shall come into force at once.

2. In paragraph 2 of the Constitution (Application to Jammu and Kashmir) Order, 1954:—

(a) in sub-paragraph (4) (relating to Part III), clause (b) shall be omitted;

(b) in sub-paragraph (11) (relating to Part)(VI):—(i) clause (a) shall be omitted; (ii) clause (b) and (c) shall be re-lettered as clauses (a) and (b), and in clause (a), as so re-lettered, for the figures and word '336, 337, 339 and 342', the figures and word '336 and 337' shall be substituted; (iii) after clause (b), as so re-lettered, the following clause shall be inserted, namely:—

(c) In clause (1) of Article 339, the words "the administration of the Schedules Areas and" shall be omitted'.

Zail Singh,
President.

(No. E 19(1)/84-LI)

R.V.S. Peri Sastri,
Secretary.

Ministry of Law and Justice: New Delhi, the 30th July, 1986

Published in the Gazette of India, Extraordinary, Part II
G.S.R. 993(E):—The following Order made by the President is published for general information:

C.O. 129

The Constitution (Application to Jammu and Kashmir) Amendment Order, 1986

In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Amendment Order, 1986.
- (2) It shall come into force at once.

PART-III

Jammu Kashmir and United Nations

Standard Documents of Standstill Agreement

Agreement between the state of and the Dominion of India.

Whereas it is to the benefit and advantage of the Dominion of India as well as of the Indian states that existing agreements and administrative arrangements in the matters of common concern, should continue for the time being, between the Dominion of India or any part thereof and the Indian States:

Now therefore it is agreed between the State and the Dominion of India that :-

1. (1) Until new agreements in this behalf are made, all agreements and administrative arrangements as to matters of common concern now existing between the Crown and any Indian State shall, in so far as may be appropriate, continue as between the Dominion of India or, as the case may be, the part thereof, and the State.

(2) In particular, and without derogation from the generality of sub clause(1) of this clause the matters referred to above shall include the matters specified in the Schedule to this Agreement.
2. Any dispute arising out of this Agreement, or out of the agreements or arrangements hereby continued, shall, unless any provision is made therein for arbitration by an authority other than the Governor-General or Governor, be settled by arbitration according, as far as may be, to the

procedure of the Indian Arbitration Act, 1899.

3. Nothing in this agreement includes the exercise of any paramountcy functions.

.....State.

.....

Secretary to the Government of India.

SCHEDULE

1. Air Communications.
2. Arms and equipment.
3. Control of commodities.
4. Currency and coinage.
5. Customs
6. Indian States Forces.
7. External Affairs.
8. Extradition.
9. Import and Export Control.
10. Irrigation and Electric power.
11. Motor Vehicles.
12. National Highways.
13. Opium.
14. Posts, Telegraphs and Telephones.
15. Railways (including police and other arrangements in Railway lands).
16. Salt.
17. Central Excess, relief from double income-tax and other arrangements relating to taxation.
18. Wireless

Acceptance of Standstill Agreement by Pakistan

Telegram was sent by Prime Minister of Jammu and Kashmir to Dominion of Pakistan on August 12, 1947. **The text is as follows:**

"Jammu and Kashmir Government would welcome Standstill Agreement with Pakistan on all existing matters with outgoing British India Government. It is suggested that existing arrangements should continue pending settlement of details.

Reply from Government of Pakistan sent on August 15, 1947. "Your telegram of the 12th, The Government of Pakistan agrees to have a Standstill Agreement with Kashmir for the continuance of the existing arrangements pending settlement of details and formal execution".

Complaint to the Security Council of United Nations, 1st January 1948 by India

Letter Dated 1 January, 1948, from the Representative of India addressed to the President of the Security Council Concerning the Situation in Jammu and Kashmir (S/628).

"1. Under Article 35 of the Charter of the United Nations any Member may bring any situation, whose continuance is likely to endanger the maintenance of international peace and security, to the attention of the Security Council. Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the north-west, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India. The circumstances of accession, the activities of the invaders which led the Government of India to take military action against them, and the assistance which the attackers have received and are still receiving from Pakistan are explained later in this memorandum. The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance, which is an act of aggression against India. If Pakistan does not do so, the Government of India may be compelled, in self-defence, to enter Pakistan territory, in order to take military action against the invaders. The matter is, therefore, one of extreme urgency and calls for immediate action by the Security Council for avoiding a breach of international peace.

"2. From the middle of September, 1947, the Government of India had received reports of the infiltration of armed raiders into the western parts of the Jammu Province of the Jammu and Kashmir State; Jammu adjoins West Punjab which is a part of the Dominion of Pakistan. These raiders had done a great deal of damage in that area and taken possession of part of the territory of the State. On 24th October, the Government of India heard of a major raid from the Frontier Province of the Dominion of Pakistan into the Valley of Kashmir. Some two thousand or more fully armed and equipped men came in motor transport, crossed over to the territory of the State of Jammu and Kashmir, sacked the town of Muzaffarabad, killing many people, and proceeded along the Jhelum Valley road towards Srinagar, the summer capital of the Jammu and Kashmir State. Intermediate towns and villages were sacked and burnt, and many people killed. These raiders were stopped by Kashmir State troops near Uri, a town some fifty miles from Srinagar, for some time, but the invaders got around them and burnt the power-house at Mahura, which supplies electricity to the whole of Kashmir.

"3. The position, on the morning of 26 October, was that these raiders had been held by Kashmir State troops and part of the civil population, who had been armed, at a town called Baramulla. Beyond Baramulla there was no major obstruction up to Srinagar. There was immediate danger of these raiders reaching Srinagar, destroying and sacking the capital and massacring large numbers of people, both Hindu and Muslims. The State troops were spread out all over the State and most of them were deployed along the western border of Jammu Province. They had been split up into small isolated groups and were incapable of offering effective resistance to the raiders. Most of the State officials had left

the threatened area and the civil administration had ceased to function. All that stood between Srinagar and the fate which had overtaken the places en route followed by the raiders was the determination of the inhabitants of Srinagar, of all communities, and practically without arms, to defend themselves. At this time Srinagar had also a large population of Hindu and Sikh refugees who had fled there from West Punjab owing to communal disturbances in that area. There was little doubt that these refugees would be massacred if the raiders reached Srinagar.

"4. Immediately after the raids into the Jammu and Kashmir State commenced, approaches were informally made to the Government of India for the acceptance of the accession of the State to the Indian Dominion. (It might be explained in parenthesis that Jammu and Kashmir form a State whose ruler, prior to the transfer of power by the United Kingdom to the Dominions of India and Pakistan, had been in treaty relations with the British Crown, which controlled its foreign relations and was responsible for its defence. The treaty relations ceased with the transfer of power on 15 August last, and Jammu and Kashmir like other States acquired the right to accede to either Dominion.)

"5. Events moved with great rapidity, and the threat to the Valley of Kashmir became grave. On 26 October, the ruler of the State, His Highness Maharaja Sir Hari Singh, appealed urgently to the Government of India for military help. He also requested that the Jammu and Kashmir State should be allowed to accede to the Indian Dominion. An appeal for help was also simultaneously received by the Government of India from the largest popular organisation in Kashmir, the National Conference, headed by Sheikh Mohammed Abdullah. The Conference further strongly supported the request for the State's accession to the Indian Dominion. The

Government of India were, thus, approached not only officially by the State authorities, but also on behalf of the people of Kashmir, both for military aid and for the accession of the State to India.

"6. The grave threat to the life and property of innocent people in the Kashmir Valley and to the security of the State of Jammu and Kashmir that had developed as a result of the invasion of the Valley demanded immediate decision by the Government of India on both the requests. It was imperative, on account of the emergency, that the responsibility for the defence of the Jammu and Kashmir State should be taken over by a government capable of discharging it. But, in order to avoid any possible suggestion that India had taken advantage of the State's immediate peril for her own political advantage, the Government of India made it clear that, once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by the recognised democratic method of a plebiscite or referendum which, in order to ensure complete impartiality, might be held under international auspices.

"7. The Government of India felt it their duty to respond to the appeal for armed assistance because :

- (i) They could not allow a neighbouring and friendly State to be compelled by force to determine either its internal affairs or its external relations;
- (ii) The accession of the Jammu and Kashmir State to the Dominion of India made India legally responsible for the defence of the State.

"8. The intervention of the Government of India resulted in saving Srinagar. The raiders, were driven back from Baramulla to Uri and are held there by Indian troops. Nearly 19,000 raiders face the Dominion forces in this area. Since the

operation in the Valley of Kashmir started, pressure by the raiders against the western and south-western border of the Jammu and Kashmir State has been intensified. Exact figures are not available. It is understood, however, that nearly 15,000 raiders are operating against this part of the State. State troops are besieged in certain areas. Incursions by the raiders into the State territory, involving murder, arson, loot, and the abduction of women, continues. The booty is meant to further the recruitment of tribesmen to the ranks of the raiders. In addition to those actively participating in the raid, tribesmen and others, estimated at 100,000, have been collected in different places in the districts of West Punjab bordering the Jammu and Kashmir State, and many of them are receiving military training under Pakistani nationals, including officers of the Pakistan Army. They are looked after in Pakistan territory, fed, clothed, armed and otherwise equipped, and transported to the territory of the Jammu and Kashmir State with the help, direct and indirect, of Pakistani officials, both military and civil.

"9. As already stated, the raiders who entered the Kashmir Valley in October came mainly from the tribal areas to the north-west of Pakistan and, in order to reach Kashmir, passed through Pakistan territory. The raids along the south-west border of the State, which had preceded the invasion of the valley proper, had actually been conducted from Pakistan territory, and Pakistan nationals had taken part in them. This process of transit across Pakistan territory and utilisation of that territory as a base of operations against the Jammu and Kashmir State continues. Recently, military operations against the western and south-western borders of the State have been intensified, and the attackers consist of nationals of Pakistan as well as tribesmen. These invaders are armed with modern weapons, including mortars and medium

machine-guns, wear the battle dress of regular soldiers and, in recent engagements, have fought in regular battle formation and are using the tactics of modern warfare. Man-pack wireless sets are in regular use and even mark V mines have been employed. For their transport the invaders have all along used motor vehicles. They are undoubtedly being trained and to some extent led by regular officers of the Pakistan Army. Their rations and other supplies are obtained from Pakistan territory.

"10. These facts point indisputably to the conclusions:

- (a) That the invaders are allowed transit across Pakistan territory;
- (b) That they are allowed to use Pakistan territory as a base of operations;
- (c) That they include Pakistan nationals;
- (d) That they draw much of their military equipment, transport, and supplies (including petrol) from Pakistan; and
- (e) That Pakistan officers are training, guiding, and otherwise actively helping them.

"There is no source other than Pakistan from which they could get such quantities of modern military equipment, training and guidance. More than once, the Government of India had asked the Pakistan Government to deny to the invaders facilities which constitute an act of aggression and hostility against India, but without any response. The last occasion on which this request was made was on 22 December, when the Prime Minister of India handed over personally to the Prime Minister of Pakistan a letter in which the various forms of aid given by Pakistan to the invaders were briefly recounted and the Government of Pakistan were

asked to put an end to such aid promptly and without reserve; no reply to this letter has yet been received in spite of a telegraphic reminder sent on the 26 December.

"11. It should be clear from the foregoing recitals that the Government of Pakistan are unwilling to stop the assistance in material and men which the invaders are receiving from Pakistan territory and from Pakistan nationals, including Pakistan Government personnel, both military and civil. This attitude is not only un-neutral, but constitutes active aggression against India, of which the State of Jammu and Kashmir forms a part.

"12. The Government of India have exerted persuasion and exercised patience to bring about a change in the attitude of Pakistan. But they have failed, and are in consequence, confronted with a situation in which their defence of the Jammu and Kashmir State is hampered and their measures to drive the invaders from the territory of the State are gravely impeded by the support which the raiders derive from Pakistan. The invaders are still on the soil of Jammu and Kashmir and the inhabitants of the State are exposed to all the atrocities of which a barbarous foe is capable. The presence, in large number of invaders in those portions of Pakistan territory which adjoin parts of Indian territory other than the Jammu and Kashmir State is a menace to the rest of India. Indefinite continuance of the present operations prolongs the agony of the people of Jammu and Kashmir, is a drain on India's resources and a constant threat to the maintenance of peace between India and Pakistan, the Government of India have no option, therefore, but to take more effective military action in order to rid the Jammu and Kashmir State of the invader.

"13. In order that the objective of expelling the invader from

Indian territory and preventing him from launching fresh attacks should be quickly achieved, Indian troops would have to enter Pakistan territory; only thus could the invaders be denied the use of bases and cut off from their sources of supplies and reinforcements in Pakistan. Since the aid which the invaders are receiving from Pakistan is an act of aggression against India, the Government of India are entitled, under international law, to send their armed forces across Pakistan territory for dealing effectively with the invaders. However, as such action might involve armed conflict with Pakistan, the Government of India, ever anxious to proceed according to the spirit of the Charter of the United Nations, desire to report the situation to the Security Council in accordance with the provisions of Article-35 of the Charter. They feel justified in requesting the Security Council to ask the Government of Pakistan :

- (i) To prevent Pakistan Government personnel, military and civil, from participating or assisting in the invasion of the Jammu and Kashmir State;
- (ii) To call upon other Pakistani nationals to desist from taking any part in the fighting in the Jammu and Kashmir State;
- (iii) To deny to the invaders : (a) access to any use of its territory for operations against Kashmir, (b) military and other supplies, (c) all other kinds of aid that might tend to prolong the present struggle.

"14. The Government of India would stress the special urgency of the Security Council taking immediate action on their request. They desire to add that military operations in the invaded areas have, in the past few days, been developing so rapidly that they must, in self-defence, reserve to themselves the freedom to take, at any time when it may

become necessary, such military action as they may consider the situation requires.

"15. The Government of India deeply regret that a serious crisis should have been reached in their relations with Pakistan. Not only is Pakistan a neighbour but, in spite of the recent separation, India and Pakistan have many common ties and many common interests. India desires nothing more earnestly than to live with her neighbour-State on terms of close and lasting friendship. Peace is to the interest of both States; indeed to the interests of the world. The Government of India's approach to the Security Council is inspired by the sincere hope that, through the prompt action of the Council, peace may be preserved.

"16. The text of this reference to the Security Council is being telegraphed to the Government of Pakistan." End.

(P.P. Pillai)

Representative of India
to the United Nations

Reply of Govt. of Pakistan before the Security Council

Letter dated 15 January 1948 from the Minister for Foreign
Affairs of Pakistan addressed to the Secretary General
Concerning the Situation in Jammu and Kashmir

I have the honour to forward the following documents:

Document 1 being Pakistan's reply to the complaint preferred by India against Pakistan under Article 35 of the Charter of the United Nations.

Document II a statement of disputes which have arisen between India and Pakistan and which are likely to endanger the maintenance of international peace and order. Pakistan being a member of the United Nations has the honour to bring these to the attention of the Security Council under Article 35 of the Charter of the United Nations. Document III which contains a statement of the particulars of Pakistan's case with reference to both the matters dealt with in Documents I and II.

2. It is requested that these documents may be placed before the Security Council and that the Security Council may be requested to deal with the complaint referred to in document II at the earliest possible date. It is further requested that all action required by the rules in connection with these Documents may kindly be taken as early as possible.

Zafrullah Khan

Minister of Foreign Affairs, Government of Pakistan

Document III

Particulars of Pakistan's Case

1. The Pakistan Government are glad that the Government of India have chosen to make a reference to the Security Council. In fact they have for some time been of the view that this is the only feasible method of peacefully settling the differences between the two countries. They have already unsuccessfully tried over a period of many months to seek a solution of the disputes between the two Dominions by the methods described in Article 33 of the Charter.
2. India has chosen to confine the reference to the Security Council to one single aspect of the Kashmir question which ignores the basic and fundamental issues affecting the State of Jammu and Kashmir. But even the Kashmir episode in all its aspects is but one link in the chain of events which has been unfolding itself ever since it became obvious that there was no solution of the Hindu-Muslim problem except the partition of India. A reference to the Security Council must therefore cover much larger ground and embrace all the fundamental differences between the two Dominions.
3. The story begins as early as the middle of 1946 following the demonstration of Muslim solidarity throughout the country after the last Provincial elections. It then became clear that the achievement of Pakistan was the unalterable goal of the Muslims. The inevitability of the partition of the country which now became evident gave rise to a wave of deep resentment among the Hindu and Sikh population of the sub-continent. As a direct result of this severe communal rioting occurred in several towns and provinces of India such as Calcutta, Noakhali, Bihar, Bombay, Garhmukteshwar, Rawalpindi, Lahore and Amritsar. Such communal strife had not been unknown

previously, but what was astonishing was the unprecedented scale of killings that took place in Bihar and Garhmukteshwar proving beyond doubt the existence of a well-settled plan of extermination of the Muslims. It was during these disturbances that the Rashtriya Sewak Sangh came to be known as the author of some of the most brutal massacres. The orgy of blood, however, died down in due course, but, as later events proved only temporarily.

4. The political activity which took place in the early part of 1947 produced a lull, but soon after the partition plan was announced on 3 June 1947, clear indications began to be received that the country was going to be plunged into a blood bath by the fanatical Sikhs and the militant Hindu groups headed by the Rashtriya Sewak Sangh who had made no secret of their opposition to the partition scheme, in spite of its being acceded by the representatives of all the three major communities.
5. The preparations which the Sikhs were making for creating large scale disturbances were known to the authorities, and in fact the Sikh leaders made no secret of them. So over whelming was the evidence that the Viceroy was compelled to warn the Maharajah of Patiala, Master Tara Singh and the other Sikh leaders, that strong action would be taken against them. At a meeting which the Viceroy had in the beginning of July 1947 with Congress and Muslim League leaders and members of the Interim Government it was decided to arrest immediately prominent Sikh leaders including Master Tara Singh and Udham Singh Nagoke. These arrests were however postponed on one ground or another and the Sikh plan was allowed to be put into operation with a carefully prepared attack on a special train carrying Pakistan Government employees and their families from

Delhi to Karachi on 9, August 1947.

6. As the plan unfolded itself it became clear that the Sikhs encouraged and actively assisted by the Hindus and determined to liquidate by violent and bloody means the entire Muslim population of East Punjab. The object of the plan was to kill or drive out Muslims in order to settle in their place the Sikh population which was being pulled out of East Punjab under a planned scheme. The modus operandi was to disarm the Muslim population and then to leave it at the mercy of armed bands who were actively assisted by the Army and police. There is abundant evidence that this plan had the full support and active assistance not only of the officers of the East Punjab Government but also of the Sikh States such as Patiala, Kapurthala, and Faridkot. Months before the partition of the country in August 1947, Alwar and Bharatpur had set the example in liquidating their entire Muslim population by massacres, forced conversions on a mass scale and by driving out the rest. Patiala, Faridkot, Jind, Kapurthala, in fact, all the Hindu and Sikh States in the East Punjab followed this example with added atrocities and fresh horrors. Malerkotla, a small neighbouring State in the East Punjab, which has a majority of non-Muslims in the population and a Muslim Ruler provides a refreshing contrast since there has been no disturbance of any kind in that State and the non-Muslim population has been perfectly safe. On the other hand, Kapurthala which like Kashmir and a majority of Muslims in the population with a non-Muslim Ruler has today hardly any Muslims left. Similarly large tracts of Muslim majority areas which under the Boundary Award had been most unjustly included in East Punjab were cleared of Muslims by massacres, forced conversions and expulsions. The whole country was ravaged by fire and sword, vast numbers were butchered and countless women were abducted. Indeed,

decency forbids mention of some crimes committed against women. Millions were forcibly and ruthlessly driven out of their home. The process went on sector by sector and culminated in the tragedy that was enacted in Delhi, the capital of India. According to the Government of India themselves there was a breakdown of administration in the capital for a number of days. The destruction and desecration of mosques, tombs and holy places and forcible conversions on a mass scale were special features of these happenings. In Alwar for example every mosque has been destroyed.

7. While this vast scheme of 'genocide' was being put into execution in East Punjab and neighbouring areas the Pakistan Government made repeated efforts to persuade the Union of India to arrest its course. A number of conferences were held between the two Dominions almost invariably at the instance of the Pakistan Government but while lip-service was paid to the necessity of restoring order no serious effort was made by the Indian Government to implement their promises. In fact it became clear that they were determined to leave no Muslims in East Punjab. The Pakistan Government appealed to the Governments of the British Commonwealth to arrange a conference to find ways and means of removing this serious threat to the peace and security of the sub-continent but the Indian Government opposed this proposal on the ground of outside interference. The Pakistan Government also proposed that United Nations observers should immediately visit the disturbed areas but this too was opposed by India.
8. This plan of liquidation of the Muslim population is still proceeding despite the pious professions of the Government of India. The latest example of this is provided by the happenings in the holy city of Ajmer,

about which the Government of Pakistan had warned the India Government some weeks ahead. In this connection the Government of Pakistan find it difficult to believe that the Government of India are innocent of complicity in this vast scheme of 'genocide' started by the Sikhs and Hindus and encouraged and supported by persons in authority as a means of destroying the newly created State of Pakistan. This is amply supported by the speeches and declarations of Hindu and Sikh leaders. The Muslims of India are being subjected to calculated insults and humiliations and pressure is being brought on them by prominent Hindu leaders including Premiers of Provinces to renounce their language and culture. All sorts of tests of loyalty are being demanded from them. The one on which particular emphasis is laid is that they should denounce Pakistan and try to undo the partition and express their readiness to fight Pakistan on the side of India in the event of war between the two Dominions, which last is an indication of the future intentions of the Government of India. It is a matter of deep regret that even today responsible members of the Government of India, including the Prime Minister, openly declare their intention or hope of bringing Pakistan back into the Indian Union, well knowing that this can be done only through conquest by arms. The Pakistan Government have pointed out many times to the India Government that speeches and statements of this nature are calculated to excite and provoke the Muslims and thus impair friendly relations between the two countries; but these representations have had no effect. Such an attitude can only mean that the Hindu and Sikh leaders while giving their agreement to the partition plan did so without any intention of permitting its implementation and, further, that India is determined to undo the settlement by all means at its disposal. In other words, Pakistan's very

existence is the chief *casus belli* as far as India is concerned.

9. The events which took place following the announcement of the accession of Junagadh and Manavadar States to Pakistan lend further support to the contention of the Pakistan Government that the Government of India intend by all possible means at their disposal to destroy Pakistan.
10. In accordance with the agreed scheme of partition and the Indian Independence Act, 1947, Indian States were under no compulsion to accede to either of the two Dominions. Notwithstanding this clear provision the Government of India by a combination of threats and cajolery forced a number of States into acceding to the Indian Union. The Rulers of Junagadh and Manavadar were similarly threatened but they stood firm and acceded to Pakistan. This was the signal for India to launch with full force its attack, using every possible weapon in order to force the States, against their will, to change their affiliations. Protests were made to the Pakistan Government, pointing out that a State which had a Hindu majority population could not accede to Pakistan, as the country had been divided on a communal basis. Another reason given was that Junagadh, though accessible from Western Pakistan by a short sea passage, was not physically contiguous to Pakistan and that its accession to Pakistan was calculated to cause disruption in the integrity of India. Simultaneously with these protests, the Government of India put large bodies of Indian troops on the border of Junagadh and encouraged the neighbouring Hindu States, which had acceded to India, to do likewise. In clear violation of the standstill agreement the Junagadh State was subjected to an economic blockade involving stoppage of all vital supplies, including food,

cloth and coal into the State territory. Lines of communication including railway and telegraph were operated in such a manner that it became virtually impossible for the State or the Muslim population of Junagadh to communicate with the outside world by the usual means. A strong press campaign calculated to destroy the morale of the State administration and to create panic among the population was launched both inside and outside the State.

11. Another line of attack was adopted by setting up a 'provisional government' with headquarters first at Bombay and later at Rajkot, which claimed the right to liberate the non-Muslim population of Junagadh State. The so-called 'Azad Fouj' of the provisional government was created and armed by the men and officers of the Indian Dominion. The 'provisional government' not only proceeded to seize by force State property in Rajkot but by violent means created conditions in which it became impossible for the State administration to function. At this point the Government of India sent their troops and occupied the State under the plea of an alleged 'invitation' by the Dewan. Since then an orgy of murder, arson, rape and loot has been let loose against the Muslims in the State by the military forces of India in exactly the same manner as in Northern India and Muslims have had to flee from the State. It should be added that as long as the State was under the administration of the Nawab, there was no molestation of any section of the population whatever. According to newspaper reports Mr. Samaldas Gandhi, the head of the so-called provisional Government, has openly thanked the Deputy Prime Minister of India for the assistance received. All this was done in utter disregard of the international code of conduct and ordinary neighbourly decency. In the interest of peace between the two Dominions Pakistan refrained

from sending a single soldier to Junagadh. Occupation by force of Junagadh which is Pakistan territory is a clear act of aggression against Pakistan. Pakistan is entitled to sent its forces into Junagadh to clear out the invading forces of India by military action and in the event of the present position continuing would be under the necessity of taking such action in discharge of its obligation to the Ruler and the people of Junagadh, as under the terms of the Instrument of Accession executed between Junagadh and Pakistan 'Defence' is an obligation of Pakistan.

12. In the case of Manavadar not even the flimsiest show of justification was considered necessary and the State was taken under military occupation without any explanation being offered. A similar fate befell the Talukadari State of Sardargarh, Bantva, Sultanabad and Mangrel. The unfortunate Rulers of some of these States have been kept in detention and have been subjected to considerable pressure to wean them from their affiliation to Pakistan.
13. Kashmir provides the culminating illustration of the hostility of the India Government to Muslims and Pakistan and their determination to satisfy their imperialistic ambition of rule over the entire sub-continent by fascist tactics and use of naked force.
14. The State of Jammu and Kashmir was purchased by the great grandfather of the present Hindu Dogra Maharajah from the East India Company in 1846 for the paltry sum of 7.5 million rupees. Nearly 80 per cent of the population of the State is Muslim but the administration, civil and military, is almost entirely in the hands of non-Muslims. The administration has been notoriously oppressive and retrograde and the Muslim population has been kept in a State of abject poverty and misery.
15. On the 15th August 1947 Jammu and Kashmir State like

other States was free to accede or not to accede to either Dominion. It entered into a standstill agreement with Pakistan under which inter alia the administration of post and telegraph services was entrusted to Pakistan. Since all the natural outlets of the State fall into Pakistan all outside supplies reached the State through Pakistan.

16. In view of the communal composition of the population of the State and the continuous oppression and degradation to which they had throughout the period of Dogra rule been subjected, against which they had risen a number of times, it was perfectly obvious to the Maharaja that any attempt made by him to accede to the Union of India and thus to perpetuate the slavery of the overwhelming Muslim population of his State to Hindu rule would immediately provoke a widespread and violent uprising which he would be utterly unable to withstand with the help of his own forces. He, therefore, chose to enter into a standstill agreement with Pakistan which served for the time being to allay the uneasiness of the Muslim population of the State and led them to hope that the standstill agreement would eventually ripen into full accession. This was, however, only a device on the part of the Maharajah to gain enough time within which to create conditions which would furnish him with a plausible excuse to call in the forces of the Indian Union so that after trampling down all popular opposition with their help he might be able to accomplish his desire of acceding to the Union of India, thus putting upon the latter the responsibility to deal with his rebellious people.
17. During September 1947 disturbing news of repression and massacres of the Muslims of the State by the Sikh armed bands and Rashtriya Sewak Sangh assisted by the Hindu Dogra police and army of the State started reaching Pakistan through Muslim refugees who sought

asylum in Pakistan. Soon the number of refugees swelled and it became obvious that the happenings of the East Punjab and the States like Patiala and Kapurthala were being re-enacted in Jammu and Kashmir. At the same time the number of raids by armed bands from the State territory into Pakistan increased. The Pakistan Government repeatedly tried to discuss these questions with the Kashmir Government as well as the complaints of the Kashmir Government regarding supplies which owing to the breakdown of communications in the Punjab were not reaching the State in full. The Pakistan Government sent a representative of their Ministry of Foreign Affairs to Srinagar to discuss these matters with the State, but Mr. Mahajan who had taken over charge as Prime Minister of the State on 15 October, refused to hold discussions with him and he had to return. On the very day that Mr. Mahajan took over charge he addressed a telegram to the Prime Minister of Pakistan threatening that unless Pakistan agreed to an impartial enquiry into the matters in dispute between the two states he would be compelled to ask for outside assistance. The Prime Minister of Pakistan at once accepted the proposal for an impartial enquiry and asked the Prime Minister of Kashmir to nominate a representative for this purpose. The Government of Kashmir made no further reference to this matter. On 18 October, the Prime Minister of Kashmir in a communication to the Governor-General of Pakistan repeated his charges against Pakistan and concluded it by saying that he wished to make it plain that the attitude of the Government of Pakistan could be tolerated no longer and that he would be justified in asking for outside assistance. On 20 October, the Governor-General replied calling attention to the repeated attempts of Pakistan to maintain friendly relations with Kashmir and invited the Prime Minister of Kashmir to come to Karachi and talk

things over with him. The Governor-General also pointed out that the threat to call outside help amounted almost to an ultimatum and showed that the real aim of the Kashmir Government's policy was to seek an excuse to accede to the Indian Union. In the opinion of the Government of Pakistan the course of these negotiations clearly shows that the Kashmir Government had never any intention of maintaining friendly relations with Pakistan and that, at any rate, as early as 15 October, they had made up their minds to call in outside assistance in concert with the Government of India.

18. Meanwhile, the repression of Muslims in the State was increasing in intensity. Repression was followed by resistance particularly in the area of Poonch, which includes in its population 65,000 ex-soldiers who fought for the United Nations during the last world war. The resistance in its turn was sought to be put down with severer oppression until the Dogra savagery supported by the brutality of Sikhs and Rashtriya Sewak Sangh created a reign of terror in the State. In sheer desperation the Muslim population of the State broke out into open revolt in several areas and declared their independence of the Maharajah. Many of them were ruthlessly cut down and acts of indescribable horror were perpetrated by the Dogra forces of the Maharajah assisted by the Sikhs and the Rashtriya Sewak Sangh. This State of affairs naturally aroused strong feelings of sympathy throughout Pakistan where the presence of millions of Muslim refugees from East Punjab (nationals of the Indian Union) and Indian States, was an ever constant reminder of the fate which was about to overtake the Muslims of Kashmir. Consequently, some of these refugees and other Muslims from contiguous areas who had numerous ties of relationship with the persecuted Muslims of the State, went across to assist their kinsmen in the struggle for

freedom and indeed for existence itself. It is to be noted that the first outside incursion into the State occurred more than a week after the Prime Minister of Kashmir had threatened to call in outside assistance. It is clear that the sole responsibility for these events must rest on the Maharajah's Government who ordered the oppression of the Muslims as a matter of State policy on the model of what had happened in East Punjab and States like Patiala, Bharatpur, Alwar, etc. In conspiracy with the Indian Government, they seized upon this incursion as the occasion for putting into effect the pre-planned scheme for the accession of Kashmir as a *coup d'etat* and for the occupation of Kashmir by the Indian troops simultaneously with the acceptance of the accession by India. The Pakistan Government have not accepted and cannot accept the accession of Jammu and Kashmir State to India. In their view the accession is based on violence and fraud. It was fraudulent in as much as it was achieved by deliberately creating a set of circumstances with the object of finding an excuse to State the 'accession'. It was based on violence because it furthered the plan of the Kashmir Government to liquidate the Muslim population of the State. The accession was against the well-known wishes of an overwhelming majority of the population and could not be justified on any grounds whether moral, constitutional, geographical, economic, cultural or religious.

19. For some time past the India Government have been engaged in misleading the world as to the true wishes of the people of Kashmir by playing up the National Conference and its leader Sheikh Abdulla. Sheikh Abdulla had been sentenced by the Maharaja's Government in 1946 to a long term of imprisonment on a charge of treason. He was released early in October 1947 as part of the plan to accede to India. On the other

hand, the true leaders of the Muslims of the State whose only representative organization is the Muslim Conference are kept in jail on technical grounds. Their real offence is that being the true representatives of the majority of Muslims of the State they favour the accession to the State of Pakistan.

20. If the Government of India had extended to the Pakistan Government the courtesy of consulting them before embarking on their enterprise and suddenly landing troops in Kashmir, or even notifying Pakistan of their proposed action thus providing an opportunity for discussion and consultation, it might have been possible to avert the tragedy of Kashmir. The events following the forcible occupation of the State by the Indian troops more than confirmed the worst fears of the Muslims. Massacres, atrocities and crimes against women, were now committed on a scale surpassing anything which the Maharaja's forces had previously perpetrated. Jammu Province which had a majority of Muslims has today very few Muslims left in areas in the occupation of the Indian forces. The condition created by the military intervention of the Government of India served to swell the torrent of popular resentment in Pakistan to an uncontrollable degree.
21. In view of this background it is not surprising if independent tribesmen and persons from Pakistan, in particular the Muslim refugees (who, it must be remembered, are nationals of the Indian Union) from East Punjab are taking part in the struggle for the liberation of Kashmir as part of the forces of the Azad Kashmir Government. In regard to the modern military equipment which is alleged to be in the possession of the Azad Kashmir Forces, to the best of the information of the Pakistan Government, these forces are poorly

equipped and such few modern weapons as they possess have either been captured from the Dogras and Indian troops or have been in their possession since the days of the British. The Pakistan Government emphatically repudiate the charge that they have supplied military equipment, transport and supplies to the 'invaders' or that Pakistan Officers are training, guiding and otherwise helping them.

22. The military resistance of Azad Kashmir has no doubt come as an unpleasant surprise to the Indian Government who appear to have underestimated the valour and patriotism of a people stirred to their depths by the horrors perpetrated upon them and their co-religionists in certain parts of the Indian Union. The character of the terrain, the climate, the familiarity of the Azad Kashmir Forces (the bulk of whom are drawn from the State) with the country in which they are operating, their military traditions and the military skill acquired by them during their fight on the side of the United Nations have all combined to nullify to a large extent the vastly superior equipment of the Indian forces.
23. This recital of the events in Kashmir would be incomplete without a statement of the many efforts made by the Pakistan Government to reach a peaceful settlement of this question. Immediately after the intervention of the Government of India in Kashmir on 27 October the Governor-General of Pakistan arranged a conference to be attended by the two 'Governors-General, the two Prime Ministers of the Dominions and the Maharaja and Prime Minister of Kashmir. This conference fell through owing to the indisposition of Pandit Jawaharlal Nehru, the Prime Minister of India. A second meeting was arranged for 1 November but again at the last minute Pandit Nehru could not come and only

the Governor-General of India came. During the discussion with the Governor-General of India, the Governor-General of Pakistan put forward the following proposals:

- (i) put an immediate stop to fighting, the two Governors-General should be authorised and vested with full powers by both Dominion Governments to issue a proclamation forthwith giving forty-eight hours' notice to the two opposing forces to cease fire. Governor-General of Pakistan explained that he had no control over the forces of the Azad Kashmir Government or the independent tribesmen engaged in the fighting but that he would warn them in that if they did not obey the order to cease fire immediately the force of both Dominions would make war on them.
 - (ii) Both the forces of the India Dominion and the outside 'invaders' to withdraw simultaneously and with the utmost expedition from Jammu and Kashmir State territory.
 - (iii) With the sanction of the two Dominion Governments the two Governors-General to be given full powers to restore peace, undertake the administration of Jammu and Kashmir State and arrange for a free plebiscite without delay under their joint control and supervision. "
24. No reply was received to these proposals for many days. On 2 November, however, the Prime Minister of India made it clear in a broadcast that the India Government intended to force a decision by military action and to continue their occupation and the puppet administration set up by them. The plebiscite which he has announced would be held after the complete subjugation of the State of the Indian armed forces is bound to be no more than a force and must result in the permanent occupation of the

State by India which is the aim of the India Government. All subsequent discussions between the two Dominions have proved fruitless owing to the insistence of India on keeping their troops in the State and their refusal to agree to an impartial administration as the pre-requisite of a free and unfettered plebiscite. The Pakistan Government suggested as early as 17 November that the whole matter including the retention of troops, the character of the interim administration and the holding of the plebiscite should be entrusted to the United Nations but India Government refused to accept this proposal.

25. While Pakistan is doing its best to maintain peaceful relations with India, there have been many attacks on Pakistan territory by armed bands from Jammu and Kashmir State Territory supported by the forces of the Maharaja and those of the Indian Union. The Pakistan Government have sent repeated representations to the India Government on the subject but without any effect. The Royal Indian Air Force has also made numerous attacks on Pakistan territory causing considerable damage to life and property. The protests of the Pakistan Government have only elicited the assertion by the Government of India that these are minor incidents due to errors of judgement by Indian airmen. The attacks have, however, continued to be persisted in.
26. India's treatment of Pakistan in respect of administrative, economic and financial matters indicates the same attitude of hostility towards Pakistan. The process of partition itself was punctuated by all manner of obstructions aimed at depriving Pakistan of its rightful share of financial and other assets, and even in cases in which agreement was reached the implementation was delayed or sabotaged. A large number of instances can be quoted in support of this statement but it will suffice to

mention the following:

- (i) division of military stores;
 - (ii) division of cash balances;
 - (iii) Interference with the Reserve Bank so as to destroy the monetary and currency fabric of Pakistan.
27. To supervise the division of armed forces and military stores a Joint Defence Council was set up consisting of Lord Mountbatten, Governor-General of India, as Chairman, representatives of the two successor authorities—India and Pakistan—and Field-Marshal Auchinleck, the Supreme Commander, as impartial authority to implement the decisions of the Joint Defence Council. It was estimated that the Supreme Commander would be able to complete his task by 31 March' 1948. Within a very short time of the setting up of the Supreme Command, India created so hostile an atmosphere in Delhi that the Supreme Commander found it impossible to discharge his responsibilities and was forced to recommend the abolition of his headquarters long before he had completed his task. In spite of the protest of Pakistan, the Government of India succeeded in doing away with this impartial organization which could have ensured equitable distribution of the stores and proper reorganization of the armed forces. The India Government pledged their word at the time that Pakistan Would get its due share of military stores. These assurances were supported by Lord Mountbatten who at a meeting of the Joint Defence Council held on 8 November stated that he believed that in view of the unanimous endorsement given by the Indian Cabinet to the pledge that India would deliver to Pakistan the letter's full share of stores, Pakistan's principal objection had been met. This pledge

like other similar pledges of the India Government has not been honoured and the slight trickle of military stores to Pakistan shows signs of stopping altogether.

28. The story of the division of cash balances is even more illustrative of the attitude of the Government of India. The cash balances of the undivided Government of India on 14 August 1947 were four-thousand million rupees. Pakistan representatives demanded that out of these one-thousand million rupees should be handed over to Pakistan as its share. Since the matter could not be settled it was decided to refer the case to the Arbitral Tribunal. In the beginning of December 1947, however, all outstanding cases which had been referred to the Arbitral Tribunal were settled by agreement between the two Dominions and Pakistan's share of the cash balances was fixed at 750 million rupees. This financial settlement was reached on its own merits and was in no way linked with the Kashmir question or any other issues. Nevertheless India has since refused to hand over the amount until the Kashmir question is settled. India's action is made possible only by the fact that the Reserve Bank of India, which holds the cash balances, is controlled and dominated by the India Government and is not functioning as it should, as a trustee of both the Dominions.
29. According to the arrangements agreed to at the time of Partition, the Reserve Bank of India was to act as Banker and Currency Authority both for the Indian Union and Pakistan. As it was realised that it would take some time for Pakistan to establish its own currency and Banking Authority and to substitute its own currency for the common currency of the pre-partition India which is in use all over the sub-continent, it was agreed that Pakistan's own currency should commence 'coming into

use from 1 April 1948, but that a separate currency authority should be set up by Pakistan by 1 October 1948.' On the suggestion of the Reserve Bank made before the partition, it was agreed that:

(a) so long as there were notes available in the Banking Department, Pakistan should be freely allowed ways and means advances on payment of interest at one-half per cent and the only limitation on these ways and means advances would be the availability of notes in the Banking Department; and

(b) that when ways and means advances were needed by Pakistan to meet its requirements which could not be otherwise met out of its cash balances or ways and means advances, Pakistan should be able to have its currency expanded against its own adhoc. The limit for such adhoc was fixed at 30 million rupees. It was agreed as a part of financial settlement between India and Pakistan announced on 9 December 1947, that India would not object to the removal of this top limit if the Reserve Bank did not raise any objection. Such adhoc were to be retired against the Pakistan share of the assets of the Reserve Bank in its issue Department.

Under pressure from the Government of India, direct or indirect, the Reserve Bank is now refusing to honour to the full its obligations. This pressure is continuing and is designed to destroy the monetary and currency fabric of Pakistan, thus endangering the safety of the State.

30. Not content with these various acts of hostility and aggression against Pakistan, the Government of India now threaten Pakistan with a direct military attack.

**Resolution 38 (1948) Submitted by the
Representative of Belgium and adopted by
the Security Council at its 229th meeting
held on 17 January, 1948.**

(Document No. S1651, dated the 17th January, 1948).

THE SECURITY COUNCIL

Having heard statements on the situation in Kashmir from representatives of the Governments of India and Pakistan; Recognising the urgency of the situation. Taking note of the telegram addressed on 6 January by its President to each of the parties and of their replies thereto; and in which they affirmed their intention to conform to the Charter of the United Nations.

1. Calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;
2. And further requests each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon.

The Security Council voted on this Resolution on 17-1-48 with the following result:

In favour: Argentina, Belgium, Canada, China, Colombia, France, Syria, U.K. and U.S.A.

Against: None

Abstaining: Ukrainian S.S.R. and U.S.S.R.

**Resolution 39 (1948) Submitted by the
Representative of Belgium and adopted
by the Security Council at its 230th
meeting held on 20 January, 1948.**

(Document No. S/654, dated the 20th January, 1948).

THE SECURITY COUNCIL

Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security, and that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency. Adopts the following resolution:

[A] A Commission of the Security Council is hereby established, composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected. Each representative on the Commission shall be entitled to select his alternates and assistants.

[B] The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.

[C] The Commission is invested with a dual function:

- (1) to investigate the facts pursuant to Article 34 of the Charter of the United Nations;
- (2) to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties, to carry out the directions given to it by the Security Council; and to report how far the advice and directions, if any, of the Security Council, have been carried out.

[D] The Commission shall perform the functions described in Clause C:

- (1) in regard to the situation in the Jammu and Kashmir State set out in the letter of the Representative of India addressed to the President of the Security Council, dated 1st January 1948, and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15th January 1948; and
- (2) in regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15th January 1948, when the Security Council so directs.

[E] The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be fulfilled for the realisation of its mission and the reaching of its conclusions.

[F] The Commission, its members, alternate members, their assistants, and its personnel, shall be entitled to journey, separately or together, wherever the necessities of their task may require, and, in particular within those territories which are the theatre of the events of which the Security Council is seized.

[G] The Secretary-General shall furnish the Commission with such personnel and assistance as it may consider necessary.

The Security Council voted on this Resolution on 20-1-1948 with the following result:

In favour: Argentina, Belgium, Canada, China, Colombia, France, Syria, U.K., and U.S.A.

Against: None

Abstaining: Ukrainian S.S.R. and U.S.S.R.

Resolution 47 (1948)
on the India-Pakistan question submitted
jointly by the Representatives for Belgium,
Canada, China, Colombia, the United
Kingdom and United States of America
and adopted by the Security Council at its
286th meeting held on 21 April, 1948.
(Document No. 5/726, dated the 21st April, 1948).

THE SECURITY COUNCIL

Having considered the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir, having heard the representative of India in support of that complaint and the reply and counter complaints of the representative of Pakistan. Being strongly of opinion that the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about cessation of all fighting. Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite, Considering that the continuation of the dispute is likely to endanger international peace and security, Reaffirms its resolution 38 (1948) of 17 January 1948;

Resolves that the membership of the Commission established by its resolution 39 (1948) of 20 January 1948, shall be increased to five and shall include, in addition to the membership mentioned in that Resolution, representatives

of... and ...*, and that if the membership of the Commission has not been completed within ten days from the date the adoption of this resolution the President of the Council may designate such other Member or Members of the United Nations as are required to complete the membership of five;

Instructs the Commission to proceed at once to the Indian subcontinent and there place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to facilitating the taking of the necessary measures, both with respect to the restoration of peace and order and to the holding of a plebiscite by the two Governments, acting in co-operation with one another and with the Commission, and further instructs the Commission to keep the Council informed of the action taken under the resolution; and, to this end.

Recommends to the Governments of India and Pakistan the following measures as those which in the opinion of the Council and appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan

A - RESTORATION OF PEACE AND ORDER

1. The Government of Pakistan should undertake to use its best endeavours:
 - (a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State;
 - (b) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of

**To be decided later*

creed, caste, or party, to express their views and to vote on the question of the accession of the State, and that therefore they should co-operate in the maintenance of peace and order.

2. The Government of India should:
 - (a) When it is established to the satisfaction of the Commission set up in accordance with the Council's Resolution 39 (1948) that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order;
 - (b) Make known that the withdrawal is taking place in stages and announce the completion of each stage;
 - (c) When the Indian forces shall have been reduced to the minimum strength mentioned in (a) above, arrange in consultation with the Commission for the stationing of the remaining forces to be carried out in accordance with the following principles:
 - (i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State;
 - (ii) That as small a number as possible should be retained in forward areas;
 - (iii) That any reserve of troops which may be included in the total strength should be located within their present base area.
3. The Government of India should agree that until such time as the plebiscite administration referred to below

finds it necessary to exercise the powers of direction and supervision over the State forces and policy provided for in paragraph 8, they will be held in areas to be agreed upon with the Plebiscite Administrator.

4. After the plan referred to in paragraph 2 (a) above has been put into operation, personnel recruited locally in each district should so far as possible be utilised for the re-establishment and maintenance of law and order with due regard to protection of minorities, subject to such additional requirements as may be specified by the Plebiscite Administration referred to in paragraph 7.
5. If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification.

B - PLEBISCITE

6. The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level, while the plebiscite is being prepared and carried out.
7. The Government of India should undertake that there will be established in Jammu and Kashmir a Plebiscite Administration to hold a Plebiscite as soon as possible on the question of the accession of the State to India or Pakistan.
8. The Government of India should undertake that there will be delegated by the State to the Plebiscite Administration such powers as the latter considers necessary for holding a fair and impartial plebiscite

including, for that purpose only, the direction and supervision of the State forces and police.

9. The Government of India should at the request of the Plebiscite Administration, make available from the Indian forces such assistance as the Plebiscite Administration may require for the performance of its functions.
10. (a) The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed to be the Plebiscite Administrator.
(b) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate the assistants and other subordinates and to draft regulations governing the Plebiscite. Such nominees should be formally appointed and such draft regulations should be formally promulgated by the State of Jammu and Kashmir.
(c) The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to act as special magistrates within the State judicial system to hear cases which in the opinion of the Plebiscite Administrator have a serious bearing on the preparation and the conduct of a free and impartial plebiscite.
(d) The terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India. The Administrator should fix the terms of service for his assistants and subordinates.
(e) The Administrator should have the right to communicate directly, with the Government of the State and with the Commission of the Security Council and,

through the Commission, with the Security Council, with the Governments of India and Pakistan and with their representatives with the Commission. It would be his duty to bring to the notice of any or all of the foregoing (as he in his discretion may decide) any circumstances arising which may tend, in his opinion, to interfere with the freedom of the Plebiscite.

11. The Government of India should undertake to prevent to give full support to the Administrator and his staff in preventing any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government of the State to announce this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir.
12. The Government of India should themselves and through the Government of the State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.
13. The Government of India should use and should ensure that the Government of the State also use their best endeavour to effect the withdrawal from the State of all Indian nationals other than those who are normally resident therein or who on or since 15th August 1947 have entered it for a lawful purpose.
14. The Government of India should ensure that the Government of the State releases all political prisoners and take all possible steps so that:

- (a) all citizens of the State who have left it on account of disturbances are invited and are free to return to their homes and to exercise their rights as such citizens;
 - (b) there is no victimization;
 - (c) minorities in all parts of the State are accorded adequate protection.
15. The Commission of the Security Council should, at the end of the plebiscite certify to the Council whether the plebiscite has or has not been really free and impartial.

C - GENERAL PROVISIONS-

16. The Governments of India and Pakistan should each be invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its task.
17. The Commission should establish in Jammu and Kashmir such observers as it may require of any of the proceedings in pursuance of the measures indicated in the foregoing paragraphs.
18. The Security Council Commission should carry out the tasks assigned to it herein.

The Security Council voted on this Resolution on 21-4-1948 with the following result:

In favour: Argentina, Belgium, Canada, China, France, Syria, U.K. and U.S.A.

Against: None

Abstaining: Belgium, Colombia, Ukrainian S.S.R. and U.S.S.R.

**Resolution adopted by the United Nations
Commission for India and Pakistan
on 13 August 1948.**

(Document No.1100, Para. 75, dated the 9th Nov., 1948).

THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN Having given careful consideration to the points of view expressed by the Representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation, resolves to submit simultaneously to the Governments of India and Pakistan the following proposal:

PART I

CEASE-FIRE ORDER

[A] The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.

[B] The High Commands of Indian and Pakistan forces agree to refrain from taking any measures that might augment the

military potential of the 'forces under their control' in the State of Jammu and Kashmir. (For the purpose of these proposals "forces under their control" shall be considered to include all forces, organised and unorganised, fighting or participating in hostilities on their respective sides)

[C] The Commanders-in-Chief of the Forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.

[D] In its discretion and as the Commission may find practicable, the Commission will appoint military observers who under the authority of the Commission and with the co-operation of both Commands will supervise the observance of the cease-fire order.

[E] The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

PART II

TRUCE AGREEMENT

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

- A. (1) As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

- (2) The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.
- (3) Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.
- B. (1) When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II A2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of their forces from the State in stages to be agreed upon with the Commission.
- (2) Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.
- (3) The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to

make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

- C. (1) Upon signature, the full text of the Truce Agreement or communique containing the principles thereof as agreed upon between the two Governments and the Commission, will be made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

The UNCIP unanimously adopted this Resolution on 13-8-1948.

Members of the Commission: Argentina, Belgium, Colombia, Czechoslovakia and U.S.A.

**Letter dated August 20, 1948 from the
Prime Minister of India to the Chairman
in reply to the Commission's resolution of
dated August 13, 1948.**

(S/1100, Para78)

New Delhi
August 20, 1948

Excellency,

1. On August 17, my colleague , the Minister without portfolio, and I discussed with you and your colleagues of the Commission now in Delhi the resolution which you had presented to us on the 14th instant. On the 18th, I had another discussion with you, in the course of which I tried to explain to you the doubts and difficulties which members of my Government , and representatives of the Government of Kashmir whom we consulted, had felt as the result of a preliminary but careful examination of the Commission's proposal.
2. During the several conferences that we had with the commission when it first came to Delhi, we placed before it what we considered the basic facts of the situation which had led to the conflict in Kashmir. This fact was the unwarranted aggression, at first indirect and subsequently direct, of the Pakistan Government on Indian Dominion territory in Kashmir. The Pakistan Government denied this although was in common knowledge. In recent months, very large forces of the Pakistan regular army have entered Indian Union territory in Kashmir and

opposed the Indian Army which was sent there for the defence of the State. This, we understand now, is admitted by the Pakistan Government, and yet there has been at no time any intimation to Government of India by the Pakistan Government of this invasion, there has been a continual denial and Pakistan Government have evaded answering repeated inquiries from the Government of India.

In accordance with the resolution of the Security Council of the United Nations adopted on January 17, 1948, the Pakistan Government should have informed the Council immediately of any material change in the situation while the matter continues to be under the consideration of the council. The invasion of the State by large forces of the regular Pakistan Army was a very material change in the situation, and yet no information of this was given so far as we know to the Security Council.

The Commission will appreciate that this conduct of the Pakistan Government is not only opposed to all moral codes as well as international law and usage, but has also created a very grave situation. It is only the earnest desire of my Government to avoid any extension of the field of conflict and to restore peace that has led us to refrain from taking any action to meet the new situation that was created by this further intrusion of Pakistan Army into Jammu and Kashmir State. The presence of the Commission in India has naturally led us to hope that any arrangement sponsored by it would deal effectively with the present situation and prevent any recurrence of aggression.

3. Since our meeting of August 18, we have given the commission's resolution our most earnest thought. There

are many parts of it, which we should have preferred to be otherwise and more in keeping with the fundamental facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognise, however, that if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before Your Excellency:

(i) That paragraph A-3 of Part II of the resolution should not be interpreted, or applied in practice, so as :

(a) To bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops;

(b) To afford any recognition of the so-called Azad Kashmir Government ; or

(c) To enable that territory to be consolidated in any way during the period of truce to the disadvantage of this State.

(ii) That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than the observance of internal law and order and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor. Thus, at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.

(iii) That as regards part III, should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organization and conduct of the plebiscite or in any other matter of internal administration in the State.

4. If I understood you correctly, A-3 of Part-II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3((1) of this letter. In fact, you made it clear that the commission was not competent to recognise the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.

As regards paragraph 3(2), the paramount need for security is recognized by the commission, and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the commission and the Government of India.

Finally, you agreed that part III, as formulated, does not in any way recognise the right of Pakistan to have any part in a plebiscite.

5. In view of this clarification, my Government, animated by a sincere desire to promote the cause of peace, and thus to uphold the principles and prestige of the United Nations, have decided to accept the resolution.

Accept, Excellency, the assurance of my highest considerations.

**Reply from the Chairman of the
Commission to the Letter from the Prime
Minister of India, dated 20 August 1948.**

New Delhi
August 25, 1948

Excellency,

I have the honour to acknowledge the receipt of your communication dated August 20, 1948 regarding the term of the resolution of the United Nations Commission for India and Pakistan which the commission presented to you on August 14, 1948.

The commission requests me to convey to your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (c) the local people of evacuated territory will have freedom of legitimate political activity. In this connection, the term “evacuated territory” refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command.

The Commission wishes me to express to your Excellency its sincere satisfaction that the Government of India has accepted the resolution and appreciates the spirit in which this decision has been taken.

I wish to avail myself to this opportunity to renew to your Excellency the assurances of my highest consideration.

(sd.) **JOSEF KORBEL**
Chairman

**Letter dated 20 August 1948, from the
Prime Minister of India to the Chairman
of the UNCIP concerning Northern
Territories**

(S/1109, Para 80)

Excellency,

You will recall that in our interview with the Commission on the 17th August, I dealt at some length with position of sparsely populated and mountainous region of the Jammu Kashmir State in the north. The authority of the Government of Jammu and Kashmir over the region as a whole has not been challenged or disturbed, except by roving bands of hostiles, or in some places like Skardu which have been occupied by irregulars or Pakistan troops. The Commission's resolution, as you agreed in the course of our interview on the 18th, does not deal with problem of administrations or defence in this large area. We desire that, after Pakistan troops and irregulars have withdrawn from the territory, the responsibility for administration of the evacuated areas should revert to the Government of Jammu Kashmir and that for defence to us. (The only exception that we should be prepared to accept would be Gilgit). We must be free to maintain Garrisons at selected points in this area for the dual purpose of preventing the incursions of tribesmen, who obey no authority, and to guard the main trade routes from the State into Central Asia.

Accept, Excellency, etc.

(Sd.) **Jawaharlal Nehru**
Prime Minister of India

**Letter dated 25 August 1948 from the
Chairman of the UNCIP to the Prime
Minister of India Concerning Northern
Territories**

(S/1100, Para 81)

Excellency,

I have the honour to acknowledge receipt of your letter of 20 August, 1948 relating to the sparsely populated and mountainous region of the State of Jammu and Kashmir in the north.

The Commission wishes me to confirm that due to the peculiar conditions of this area, it did not specifically deal with the military aspect of the problem in its Resolution of 13 August 1948. It believes, however, that the question raised in your letter would be considered in the implementation of the resolution.

Accept, Excellency, etc.

(Sd.) **JOSEF KORBEL**

Chairman

Aide Memoire No. 1

(21 December, 1948)

His Excellency Dr. Lozano, accompanied by his Alternate Mr. Samper, and His Excellency Mr. Colban, Personal Representative of the Secretary-General of the United Nations, met the Prime Minister Yesterday. The Hon'ble Shri. Goapalaswami Ayyengar and Sir G. S Bajpai were also present. The discussions of the Commission's plebiscite proposal fell into two parts: (1) General (2) Particular in reference to Individual clauses.

2. The prime minister drew attention to Pakistan's repeated acts of aggression against India. In spite of the presence of Pakistan troops in Jammu and Kashmir, which is Indian Territory now, and the offensive action of Pakistan troops the Government of India had accepted the Commission's resolution of the 13th August; Pakistan had not accepted that resolution . In paragraph 143 of its report, the Commission has referred to its conference with the Prime Minister on the conditions attached by the Government of Pakistan to its acceptance of the resolution of 13th August. As stated in paragraph 144 of the report, the Prime Minister had informed the commission that he stood on his original premises that the Pakistan forces must be withdrawn from the State before the Government of India could consider any further steps. This had specific reference to an amplification of Part III of the resolution of the 13th August nevertheless, the Government of India had agreed to informal conversations in Paris which had resulted in the formulation of the proposals now put forward by Commission. The

Government of India naturally wondered how far this process of rejection of proposals put forward by the Commission by Pakistan and the adoption of a responsive attitude on the part of the Government of India towards the Commission's proposals could continue. The Commission must realize that there were limits to the forbearance and spirit of conciliation of the Government of India. The Prime Minister emphasized (1) That, if the Government of India were to accept the Commission's plebiscite proposals , no action could be taken in regard to them until Parts I and II of the Commission's Resolution of the 13th August had been fully implemented ; (2) that in the event of Pakistan not accepting these proposals , or having accepted them , not implementing Parts I And II of the Resolution of the 13th August, the Government of India's acceptance of them should not be regarded as in any way binding upon them; (3). Part III of the Commission's resolution of the 13th August provided “that the future status of the State of Jammu and Kashmir shall be determined in accordance with will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured “. The present proposals appeared to limit the method of ascertaining the will of the people regarding the future status of the State of Jammu Kashmir through a plebiscite. While the Governmnet of India adhered to their position in regard to a plebiscite, they had pointed out that, in view of the difficulties of holding a plebiscite in present conditions in Kashmir, other methods of ascertaining the wish of the people should also be explored. The Commission had itself recognized the difficulties of carrying out a plebiscite in Kashmir. The Government of India feels that the exploration of other method should not be ruled out.

3. As regards (1) , Dr. Lozano enquired whether there should be objection to the appointment of a Plebiscite Administrator until Part I and Part II of the Resolution of the 13th August had been implemented. Both he and Mr Colban thought that the Plebiscite Administrator could usefull exploratory work even before arrangements for holding a plebiscite could be taken in hand. The Prime Minister pointed out that it was always open to the Commission to employ advisers or experts for work within its terms of reference. The Government of India , however, would regard the appointment of a Plebiscite Administrator until parts I and II of the resolution of the 13th August had been implemented Dr. Lozano accepted. (2). As regards (3). He said that the commission wished the possibility of a plebiscite to be explored first. Should the Plebiscite Administrator, however , find a plebiscite to be impracticable, the way would be open to consider other methods for ensuring a free expression by the people of Jammu and Kashmir of their wish regarding the future status of the State.

4. B. 1. Preamble, The phrase “The Governments of India and Pakistan simultaneously accept” is incorrect in that either Government may not accept the principles supplementary to the Resolution of the 13th August. Even if both Governments accept them, the acceptance cannot be simultaneous. The wording should be changed accordingly.

B.3 (b). The question was raised whether the form of words employed was intended to give to the Plebiscite Administrator powers of interference in the administration of the state, e.g by “direction and supervision of the State Forces and police”, mentioned in paragraph B. 8 of the Security Council's Resolution of the 21st April, 1948. Dr. Lozano said that this was not the intention of the

Commission and that the words quoted out that all the Plebiscite Administrator could in reason expect was that, for the purpose of organizing and conducting the plebiscite and ensuring its freedom and impartiality, the Government of Jammu Kashmir should give him such assistance as he might require. Dr. Lozano said that a Plebiscite Administrator of International standing and Commanding General confidence, who would be appointed after consultation with the Government of India, could be expected to act reasonably and that the Commission did not intend that he should usurp the functions of the State Government in the field of normal administrations and law and order. His functions in the field of normal administration and law and order. His functions and powers would be limited to ensuring that the plebiscite was free and impartial.

B.4 (b). The Prime Minister drew attentions to the fact that the Azad Kashmir forces which had been armed and equipped by Pakistan and were under the operational command of the Pakistan Army ran into tens of thousands. Their presence in the territories referred to in A 3 of Part II of the Resolution of the 13th August, even after demobilization, would be a constant threat to the territory under the control of India and State Forces, a deterrent to the return of many refugees, and an obstacle to the free expression of opinion regarding the future status of the State by those who might be opposed to the accession of the State to Pakistan. Dr Lozano pointed out that it was the Commission's intention that there should be large-scale disarming of these forces, though it would not be possible to require withdrawal from these territories of genuine inhabitants of these areas.

B.6(a). DR Lozano agreed that it was not the Commission's intention that the Pakistan Commission should operate

outside Pakistan. Thus, the Pakistan Commission would not operate in the territory referred to in A.3 of Part II of the Resolution of the 13th August. The Prime Minister then raised the question of the “free return” to the State of all citizens who had left it on account of the disturbances. He said that the tendency of Pakistan would be to push as many people as possible into Jammu and Kashmir if the plebiscite was to be limited, as it should be, to genuine citizens of the State, the entry of persons claiming to be citizens into the State will have to be most carefully checked. How was this to be achieved?

Dr Lozano said that the Commission fully realized the necessity of an accurate and effective check but had not gone into details. Possibly those returning to the State could be stopped and examined at the frontier. The Prime Minister pointed out that, considering the length of the frontier and the ease with which people could slip across the border over mountain tracks, a check on the frontier would be neither easy nor effective, except by the employment of large forces.

Apart from the problem of entry, there is the even more important problem of the rehabilitation and protection of those who have left the State on account of recent disturbances. Homes have been destroyed; property has been lost; there has been wholesale dispossession of persons from the land that they used to cultivate. It is not enough to “invite” these persons to return to the State. They have to be given full security and to be housed, fed and put in a position to maintain themselves. It may be necessary to lodge these 'returning citizens of the State temporarily in camps for distribution to their homes. They could not, however, be expected to remain in relief camps for long or to take part in a plebiscite from such camps. The administrative and economic implications of this task were at once significant

and onerous. They must receive full attention.

B.6(b). It is assumed that the Government of Jammu and Kashmir will decide whether or not a person entered the State for a lawful purpose.

B.7 (b). India is a secular State; the United Nations also are a secular organization. Pakistan aims at being a theocratic State. An appeal to religious fanaticism could not be regarded as legitimate political activity. Dr. Lozano agreed that any political activity which might tend to disturb law and order could not be regarded as legitimate. The same test would apply to freedom of press and of speech.

As regards the freedom of lawful entry and exit, this must obviously be governed by B.6 of the proposal. It is assumed that in the territory under their control, entry and exit will be regulated by rules framed for the purpose by the Government of Jammu and Kashmir, with due regard to the security of the State and the maintenance of law and order. Dr Lozano said that a system of permits would probably be necessary.

B.7(c). Persons guilty of ordinary offences against law and order will not be regarded as political prisoners.

5. In all their negotiations the Government of India have emphasized the paramount need of ensuring the security of the State. The Commission recognized this is their Resolution of the 13th August; They have also provided in 4 (a) of the plebiscite proposals that measures with regard to the final disposal of Indian and State Forces will be taken with due regard to the security of the State. The Government of India wish to emphasis the supreme importance which they attach to adequate provision for the security of the State in all contingencies.

Aide Memoire No.II

(22 December 1948)

His Excellency Dr. Lozano and His Excellency Mr. Colban met the Prime Minister . The Hon'ble Shri Gopalswami Ayyangar, Sir Girja Shanker Bajpai and Mr. Pai were also present.

2. Dr Lozano said that the aide memoire of the conference which took place on Monday, the 20th December, was a correct account of the proceedings. He suggested, however, that the phrase “ large scale disarming of the Azad Kashmir forces” used in portion of the aide memoire dealing with B.4(b) of the commission's plebiscite proposals did not, perhaps, represent the commission's intention. What the commission had in the mind was the disbanding of these forces, disarming, it was assumed, would follow. The Prime Minister pointed out that disbandment was not the same thing as disarming. Pakistan has raised something like 35 battalions of 28000 to 30000 men who now formed part of the Azad Kashmir forces. The presence of such a large number of armed people, even if the regular formations were disbanded, would not be conducive either to ensure the security of the part of Jammu and Kashmir which is under the control of Indian and State forces, or the security of those inhabitants of the territories referred to in A.3 of part II of the Resolution of the 13th August who did not fully subscribe to or share the political views of pro Pakistan elements. Moreover, the question of the reentry into these territories of the State citizens who had left it on account of

the present conflict had to be kept in mind. With such a large number of members of the Azad Kashmir forces under arms, former inhabitants of these territories who had different political view would not dare to re – enter and, therefore, would be debarred from participation in a “ free and impartial” plebiscite. In view of this explanation, Dr. Lozano agreed that phrase “large – scale disarming” should be regarded as correctly interpreting the Commission's intention.

3. Discussion then turned on B.10 of the proposal Dr. Lozano answering an enquiry of the Prime Minister, said that the Commission did not contemplate that the Plebiscite Administrator should undertake any administrative functions in regard to the plebiscite until parts I and II of the commission's Resolution of the 13th August 1948 had been implemented. Until such implementation, the condition for the discharge of such functions would not exist . What the Commission had in mind was that discussion on details connected with the plebiscite might begin as soon as possible as this would create a good impression all around. Monsieur Colban supported this view on the ground that the announcement of a plebiscite administrator of high standing would have an excellent psychological effect. Monsieur Colban added that, of course, if difficulties arose in the implementation of Part-II of the resolution of the 13th August, the preliminary consultations regarding the functions of the Plebiscite Administrator and other detailed arrangements for the plebiscite would have to be deferred.

The Prime Minister replied that, under the Commission's Proposals, the Governments of India and Jammu and Kashmir assumed a great many responsibilities while Pakistan had to do practically nothing. The Government of

India and Jammu and Kashmir could not, in fairness, be expected to discharge. Any of their responsibility regarding the plebiscite until there was satisfactory evidence that Pakistan was carrying out its obligations under Part II of the Resolution of the 13th August. Moreover, once the present proposals had been accepted, the things left over for discussion with the Plebiscite Administrator would be (1) his functions, and (2) detailed arrangements for carrying out a plebiscite. A Consideration of (2) would clearly be impracticable until parts I and II of the resolution of the 13th August had been implemented. Unless cease fire was carried out and Pakistan forces, hostile tribesmen and Pakistan nationals who had entered the state for purpose of fighting had withdrawn, there could not be, in the territories referred to in A.3 of Part II of the Resolution of the 13th August, any local authorities with whom plebiscite arrangements could be discussed. B.9, as at present worded, could be interpreted to mean that consultation with the plebiscite Administrator should start immediately on the signature of the truce. This clearly was not feasible. Dr. Lozano and Monsieur Colban pointed out that, when the paragraph in question was drafted, all these considerations were not present to the mind of the Commission, two day after of it had placed before him the condition attached by the Government to their acceptance of the resolution of the 13th August, that he stood on his original premises that the Pakistan forces must be withdrawn from the state before the Government of India could consider any further steps, action in relation to B.9 would be feasible only after satisfactory progress had been made the implementation of Part II of the Resolution of the 13th August. He and Monsieur Colban agreed that the consultations envisaged in B.9 could take place only after the Commission was satisfactory progress had been made with

the implementation of Part II of the resolution, that is, after hostile tribesmen. Pakistan forces and Pakistan nationals who had entered Jammu and Kashmir for the purpose of fighting had withdrawn from State territory. Dr. Lazano said that this was the interpretation of B.9 which they could present to the Pakistan Government in Karachi.

4. Dr. Lozano stressed the importance of appointing the Plebiscite Administrator as soon as possible. In view of the preliminaries that had to be gone through, he thought that it might take some time before the plebiscite Administrator was finally appointed. The Prime Minister pointed out that, if Pakistan accepted the present proposals and carried out its obligation under Part II of the resolution of the 13 th August promptly, he saw no reason why the appointment should be take such time. What he wished to emphasis was that there would be nothing which the Plebiscite Administrator could usefully do in India until progress had been made with the implementation of Part II of the Resolution as now explained by Dr. Lozano and Mr. Colban.

5. As regards alternative methods of ascertaining the wish of the people regarding the future status of Jammu and Kashmir, Dr. Lozano said that the statement of the paragraph 3 of the aide memoire dated the 12st December 1948, was substantially similar to his own record which reads “ Dr. Lozano said that it would be up to the Plebiscite Administrator to report the security council (through the Commission) if he found the Plebiscite procedure to be impossible for technical or practical reasons. The Plebiscite Administrator and / or the Commission could then recommend alternative solutions.”

6. Concluding the discussion, the Prime Minister once again emphasised the need for security for displaced state nationals

returning to the territory referred to in Part II A-3 of the Commission' s resolution of the 13th August. Equally important would be the task of rehabilitation of refugees returning to this area as well as to the part of the state under the control of the Government of Jammu and Kashmir. Hundreds of thousands of persons were involved. Not only organization and machinery but time and money would be needed to accomplish the formidable task of restoring these unhappy persons to what once was their home. Until this task was completed, the condition for a free and impartial plebiscite would not exist. Dr. Lozano recognized the importance of this matter and pointed out that it would have to be carefully gone into when the consultations on the details of the presents proposals took place.

Resolution adopted at the meeting of the United Nations Commission for India and Pakistan on 5 January, 1949.

(Document No. 5/1196 para. 15, dated the 10th Jan., 1949).

THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

Having received from the Governments of India and Pakistan in Communications, dated December 23 and December 25, 1948, respectively their acceptance of the following principles which are supplementary to the Commission's Resolution of August 13, 1948;

1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite;
2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of 13 August 1948, have been carried out and arrangements for the plebiscite have been completed;
3. (a) The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.

(b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers

necessary for organising and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.

(c) The Plebiscite Administrator shall have authority to appoint such staff or assistants and observers as he may require.

4. (a) After implementation of Parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

(b) As regards the territory referred to in A 2 of Part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.

5. All civil and military authorities within the State and the principal political elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.
6. (a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan.

The Commissions shall operate under the direction of the Plebiscite Administrator. The Governments of India

and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.

(b) All persons (other than citizens of the State) who on or since 15 August 1947, have entered it for other than lawful purpose, shall be required to leave the State.

7. All authorities within the State of Jammu and Kashmir will undertake to ensure in collaboration with the Plebiscite Administrator, that:

(a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in plebiscite;

(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit;

(c) All political prisoners are released;

(d) Minorities in all parts of the State are accorded adequate protection; and

(e) There is no victimization.

8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted;

9. At the conclusion of the plebiscite, the Plebiscite

Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the Plebiscite has or has not been free and impartial;

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultation envisaged in Part III of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations;

Commends the Governments of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before midnight of first January 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of 13 August 1948; and Resolves to return in the immediate future to the sub-continent to discharge the responsibilities imposed upon it by the resolution of 13 August 1948, and by the foregoing principles.

The UNCIP unanimously adopted this Resolution on 5-1-1949. Members of the Commission: Argentina, Belgium, Colombia, Czechoslovakia and U.S.A.

Tashkent Declaration

January 10, 1966

The Prime Minister of India and the President of Pakistan, having met at Tashkent and having discussed the existing relations between India and Pakistan hereby declare their firm resolve to restore normal and peaceful relations between their countries and to promote understanding and friendly relations between their peoples. They consider the attainment of these objectives of vital importance for the welfare of the 600 million people of India and Pakistan.

- (i) The Prime Minister of India and the President of Pakistan agree that both sides will exert all efforts to create good neighborly relations between India and Pakistan in accordance with the United Nations Charter. They reaffirm their obligation under the Charter not to have recourse to force and to settle their disputes through peaceful means. They considered that the interests of peace in their region and particularly in the Indo-Pakistan subcontinent and indeed, the interests of the peoples of India and Pakistan were not served by the continuance of tension between the two countries. It was against this background that Jammu & Kashmir was discussed, and each of the sides set forth its respective position.

Troops Withdrawal

- (ii) The Prime Minister of India and the President of Pakistan have agreed that all armed personnel of the two countries shall be withdrawn not later than 25 February

1966 to the positions they held prior to 5 August 1965, and both sides shall observe the cease-fire terms on the cease-fire line.

- (iii) The Prime Minister of India and the President of Pakistan have agreed that relations between India and Pakistan shall be based on the principle of non-interference in the internal affairs of each other.
- (iv) The Prime Minister of India and the President of Pakistan have agreed that both sides will discourage any propaganda directed against the other country and will encourage propaganda which promotes the development of friendly relations between the two countries.
- (v) The Prime Minister of India and the President of Pakistan have agreed that the High Commissioner of India to Pakistan and the High Commissioner of Pakistan of India will return to their posts and that the normal functioning of diplomatic missions of both countries will be restored. Both Governments shall observe the Vienna Convention of 1961 on Diplomatic Intercourse.

Trade Relations

- (vi) The Prime Minister of India and the President of Pakistan have agreed to consider measures towards the restoration of economic and trade relations, communications as well as cultural exchanges between India and Pakistan, and to take measures to implement the existing agreement between India and Pakistan.
- (vii) The Prime Minister of India and the President of Pakistan have agreed that they will give instructions to their respective authorities to carry out the repatriation of the prisoners of war.

(viii) The Prime Minister of India and the President of Pakistan have agreed that the two sides will continue the discussions of questions relating to the problems of refugees and eviction of illegal immigrations. They also agreed that both sides will create conditions which will prevent the exodus of people. They further agree to discuss the return of the property and assets taken over by either side in connection with the conflict.

Soviet Leaders Thanked

- (ix) The Prime Minister of India and the President of Pakistan have agreed that the two sides will continue meetings both at highest and at other levels of matters of direct concern to both countries. Both sides have recognized the need to set up joint Indian-Pakistani bodies which will report to their Governments in order to decide what further steps should be taken.
- (x) The Prime Minister of India and the President of Pakistan record their feelings, deep appreciation and gratitude to the leaders of the Soviet Union, the Soviet Government and personally to the Chairman of the Council of Ministers of the USSR for their constructive, friendly and noble part in bringing about the present meeting which has resulted in mutually satisfactory results. They also express to the Government and friendly people of Uzbekistan their sincere thankfulness for their overwhelming reception and generous hospitality.

They invite the Chairman of the Council of Ministers of the USSR to witness this declaration.

Prime Minister of India
Lal Bahadur Shastri

President of Pakistan
Mohammed Ayub Khan

Shimla Agreement

2 July 1972

This agreement on Bilateral Relations between India and Pakistan was signed after the 1971 India-Pakistan War, in which Pakistan was defeated conclusively and which resulted in the creation of Bangladesh. India refrained from attacking or finishing off Pakistan and signed this agreement with the hope that henceforth the countries in the region would be able to live in peace with each other. The then Pakistani Prime Minister, Zulfikar Ali Bhutto, also promised the then Indian Prime Minister, Mrs Indira Gandhi that his country would accept the Line of Control (LOC) in the state of J&K as the de facto border and would not try to de-stabilise it. This was not formally entered in the agreement because Bhutto said it would cause domestic problems for him at this juncture. Mrs Gandhi magnanimously accepted his promise and did not formalise that part of the agreement. But Pakistan, as later events were to prove, never kept its part of the deal.

The Government of India and the Government of Pakistan are resolved that the two countries put an end to the conflict and confrontation that have hitherto marred their relations and work for the promotion of a friendly and harmonious relationship and the establishment of durable peace in the sub-continent, so that both countries may henceforth devote their resources and energies to the pressing task of advancing the welfare of their peoples.

In order to achieve this objective, the Government of India and the Government of Pakistan have agreed as follows:

- (i) That the principles and purposes off the Charter of the United Nations shall govern the relations between the countries;
 - (ii) That the two countries are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them. Pending the final settlement of any of the problems between the two countries, neither side shall unilaterally alter the situation nor shall both prevent the organization, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations.
 - (iii) That the pre-requisite for reconciliation, good-neighbourliness and durable peace between them is a commitment by both countries to peaceful co-existence, respect for each other's territorial integrity and sovereignty and non-interference in each other's internal affairs, on the basis of equality and mutual benefit;
 - (iv) That the basic issues and causes of conflict which have bedevilled the relations between the two countries of the last twenty-five years shall be resolved by peaceful means;
 - (v) That they shall always respect each other's national unity, territorial integrity, political independence and sovereign equality;
 - (vi) That in accordance with the Charter of the United Nations, they shall refrain from the threat or use of force against the territorial integrity or political independence of each other;
- (II) Both Governments will take all steps within their power to prevent hostile propaganda directed against each other.

Both countries will encourage the dissemination of such information as would promote the development of friendly relations between them;

(III) In order progressively to restore and normalize relations between the two countries step by step, it was agreed that;

(i) Steps shall be taken to resume communications, postal, telegraphic, sea, land including border posts, and air links including over flights;

(ii) Appropriate steps shall be taken to promote travel facilities for the nationals of the other country;

(iii) Trade and co-operation in economic and other agreed fields will be resumed as far as possible;

(iv) Exchange in the fields of science and culture will be promoted.

In this connexion delegations from the two countries will meet from time to time to work out the necessary details.

(IV) In order to initiate the process of the establishment of durable peace, both Governments agree that:

(i) Indian and Pakistani forces shall be withdrawn to their side of the international border;

(ii) In Jammu and Kashmir, the line of control resulting from the cease-fire of December 17, 1971 shall be respected by both sides without prejudice to the recognized position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat of the use of force in violation of this line;

(iii) The withdrawals shall commence upon entry into

force of this Agreement and shall be completed within a period of thirty days thereof.

(V) This Agreement will be subject to ratification by both countries in accordance with their respective constitutional procedures, and will come into force with effect from the date on which the Instruments of Ratification are exchanged.

(VI) Both Governments agree that their respective Heads will meet again at a mutually convenient time in the future and that, in the meanwhile, the representatives of the two sides will meet to discuss further the modalities and arrangements for the establishment of a durable peace and normalization of relations, including the questions of repatriation of prisoners of war and civilian internees, a final settlement of Jammu and Kashmir and the resumption of diplomatic relations.

Sd/-

Indira Gandhi

Prime Minister

Republic of India

Sd/-

Zulfiqar Ali Bhutto

President

Islamic Republic of Pakistan

PART-IV

**Perspective of Pakistan and China on the area of
Jammu Kashmir occupied by Pakistan**

The Constitution of the Islamic Republic of Pakistan

PART I Introductory

1. The Republic and its territories

1) Pakistan shall be a Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.

[1]2) The territories of Pakistan shall comprise :-

a) the Provinces of [1A] Balochistan, [1B] Khyber Pakhtunkhwa, the Punjab and [1C] Sindh;

b) the Islamabad Capital Territory, hereinafter referred to as the Federal Capital;

c) Federally Administered Tribal Areas; and

d) such States and territories as are or may be included in Pakistan, whether by accession or otherwise.

3) [2] [Majlis-e-Shoora (Parliament)] may by law admit into the Federation new States or areas on such terms and conditions as it thinks fit.]

The Boundary Agreement Between China And Pakistan, 1963

The Government of the People's Republic of China and the Government of Pakistan;

Having agreed, with a view to ensuring to prevailing peace and tranquility on the border, to formally delimit and demarcate the boundary between China's Sinkiang and the contiguous areas the defence of which is under the actual control of Pakistan, in a spirit of fairness, reasonableness, mutual understanding and mutual accommodation, and on the basis of the ten principles as enunciated in the Bandung conference;

Being convinced that this would not only give full expression to the desire of the peoples of China and Pakistan for the development of good neighbourly and friendly relations, but also help safeguard Asian and world peace.

Have resolved for this purpose to conclude the present agreement and have appointed as their respective plenipotentiaries the following:

For the Government of the People's Republic of China;
Chen Yi, Minister of Foreign Affairs;

For the Government of Pakistan; Mr. Zulfikar Ali Bhutto,
Minister of External Affairs;

Who, having mutually examined their full powers and found them to be in good and due form, have agreed upon the following:

Article 1

In view of the fact that the boundary between China's Sinkiang and contiguous areas the defence of which is under the actual control of Pakistan has never been formally delimited, two parties agree to delimit it on the basis of the traditional customary boundary line including natural features and in a spirit of equality, mutual benefit and friendly co-operation.

Article 2

(One) In accordance with the principle expounded in Article 1 of the present agreement, the two parties have fixed, as follows the alignment of the entire boundary line between China's Sinkiang and the contiguous areas the defence of which is under the actual control of Pakistan:

(1) Commencing from its north-western extremity at height 5630 metres (a peak, the reference co-ordinates of which are approximately longitude 74 degrees 34 minutes east and latitude 37 degrees 03 minutes north), the boundary line runs generally eastward and then southeastward strictly along

the main watershed between the tributaries of the Tashkurgan river of the Tarim river system on the one hand and tributaries of the Hunza river of the Indus river system on the other hand, passing through the Kalik Daban (Dawan), the Mintake Daban (pass), the Kharchanai Daban (named on the Chinese map only), the Mutsjilga Daban (named on the Chinese map only), and the Parpik Pass (named on the Pakistan map only), and reaches the Khunjerab (Yutr) Daban (Pass).

(2) After passing through the Khunjerab (Yutr) Daban (pass), the boundary line runs generally southward along the above mentioned main watershed up to a mountain-top south of

this Daban (pass), where it leaves the main watershed to follow the crest of a spur lying generally in a southeasterly direction, which is the watershed between the Akijilga river (a nameless corresponding river on the Pakistan map) on the one hand, and the Taghumbash (Oprang) river and the Koliman Su (Oprang Jilga) on the other hand.

According to the map of the Chinese side, the boundary line, after leaving the southeastern extremity of this spur, runs along a small section of the middle line of the bed of the Keliman Su to reach its confluence with the Kelechin river. According to the map of the Pakistan side, the boundary line, after leaving the southeastern extremity of the spur, reaches the sharp bend of the Shaksgam or Muztagh River.

(3) From the aforesaid point, the boundary line runs up the Kelechin river (Shaksgam or Mistagh river) along the middle line of its bed to its confluence (reference co-ordinates approximately longitude 76 degrees 02 minutes east and latitude 36 degrees 26 minutes north) with the Snorbulak Daria (shimshal river or Braldu river).

(4) From the confluence of the aforesaid two rivers, the boundary line, according to the map of the Chinese side, ascends the crest of a spur and runs along it to join the Karokoram range main watershed at a mountain-top (reference co-ordinates approximately longitude 75 degrees 54 minutes east and latitude 36 degrees 15 minutes north) which on this map is shown as belonging to the Shorgulak mountain. According to the map of the Pakistan side, the boundary line from the confluence of the above-mentioned two rivers ascends the crest of a corresponding spur and runs along it, passing through height 6520 metres (21,390 feet) till it joins the Karakoram range main watershed at a peak (reference co-ordinates approximately longitude 75 degrees

57 minutes east and latitude 36 degrees 03 minutes north).

(5) Thence, the boundary line, running generally southward and then eastward, strictly follows the Karakoram range main watershed which separates the Tarim river drainage system from the Indus river drainage system, passing through the east Mustagh pass (Mustagh pass), the top of the Chogri peak (K-2), the top of the broad peak, the top of the Gasherbrum mountain 8068, the Indirakoli pass (names on the Chinese maps only) and the top of the Teram Kankri peak, and reaches its southeastern extremity at the Karakoram pass.

(Two) The alignment of the entire boundary line as described in section one of this article, has been drawn on the one million scale map of the Chinese side in Chinese and the one million scale map of the Pakistan side in English which are signed and attached to the present agreement.

(Three) In view of the fact that the maps of the two sides are not fully identical in their representation of the topographical features the two parties have agreed that the actual features on the ground shall prevail, so far as the location and alignment of the boundary described in Section one is concerned, and that they will be determined as far as possible by joint survey on the ground.

Article 3

The two parties have agreed that: Wherever the boundary follows a river, the middle line of the river, the middle line of the river bed shall be the boundary line; and that Wherever the boundary passes through Daban (pass), the water-parting line thereof shall be the boundary line.

Article 4

I. The two parties have agreed to set up, as soon as possible, a joint boundary demarcation commission. Each side will

appoint a chairman, one or more members and a certain number of advisers and technical staff. The joint boundary demarcation commission is charged with the responsibility, in accordance with the provisions of the present agreement, to hold concrete discussions on and carry out the following tasks jointly:

- (1) To conduct necessary surveys of the boundary area on the ground, as stated in Article 2 of the present agreement, so as to set up boundary markers at places considered to be appropriate by the two parties and to delineate the boundary line of the jointly prepared accurate maps.
- (2) To draft a protocol setting forth in detail the alignment of the entire boundary line and the location of all the boundary markers and prepare and get printed detailed maps, to be attached to the protocol, with the boundary line and the location of the boundary markers shown on them.

II. The aforesaid protocol, upon being signed by the representatives of the Government of the two countries, shall become an annex to the present agreement, and the detailed maps shall replace the maps attached to the present agreement.

III. Upon the conclusion of the above-mentioned protocol, the tasks of the joint boundary demarcation commission shall be terminated.

Article 5

The two Parties have agreed that any dispute concerning the boundary, which may arise after the delimitation of the boundary line actually existing between the two countries shall be settled peacefully by the two parties through friendly consultations.

Article 6

The two Parties have agreed that after the settlement of the Kashmir dispute between Pakistan and India, the sovereign authority concerned will reopen negotiations with the Government of the People's Republic of China, on the boundary as described in Article Two of the present Agreement, so as to sign a formal Boundary Treaty to replace the present agreement:

Provided that in the event of that sovereign authority being Pakistan, the provisions of this agreement and the aforesaid Protocol shall be maintained in the formal Boundary Treaty to be signed between the Peoples Republic of China and Pakistan.

Article 7

The present agreement shall come into force on the date of its signature. Done in duplicate in Peking on the second day of March, 1963, in the Chinese and English language, both texts being equilly authentic. Marshal Chen Yi, Zulfikar Ali Bhutto, Plenipotentiary of the Plenipotentiary of the Government of the Government of Pakistan People's Republic of China.

Marshal Chen Yi

Plenepotentiary of the
Government of the People's
Republic of China

Zulfikar Ali Bhutto

Plenepotentiary of the
Government of Pakistan

Jammu Kashmir Study Center New Delhi

Jammu Kashmir Study Center (JKSC) is an organization dedicated to objective research and policy relevant studies on all aspects of the state of Jammu Kashmir. JKSC is committed to conduct studies of historical, legal and social aspects of this strategically important state of India and to disseminate the outcome of the same in right perspective in public domain. JKSC conducts investigations, issues statements and organizes seminars, workshops and orientation programs to highlight the issues related to Jammu Kashmir.

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Office Address:

Jammu Kashmir Study Center ,New Delhi

Prawasi Bhawan ,50 ,First Floor ,New Delhi, Tele 011 -23213039

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