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**V.K. KRISHNA MENON**

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## Foreword

The Indian Parliamentary Group decided in the beginning of last year to celebrate the birth anniversaries of some eminent parliamentarians in order to recall and recount their valuable and multifarious contributions to our national and parliamentary life. In pursuance of this endeavour, a new series known as the "Eminent Parliamentarians Monograph Series" was started in March, 1990 and as many as twelve monographs on Dr. Ram Manohar Lohia, Dr. Lanka Sundaram, Dr. Syama Prasad Mookerjee, Pandit Nilakantha Das, Shri P. Govinda Menon, Shri Bhupesh Gupta, Dr. Rajendra Prasad, Sheikh Mohammad Abdullah, Shri C.D. Deshmukh, Shri Jaisukh Lal Hathi, Shri M. Ananthasayanam Ayyangar and Dr. B.R. Ambedkar have been brought out so far.

The present monograph which is thirteenth in the series, seeks to provide some glimpses into the life and parliamentary activities of Shri V.K. Krishna Menon—a man of deep conviction, an impassioned patriot, an eminent parliamentarian and an outstanding statesman. His role as a freedom fighter in our freedom struggle and his relentless fight against colonialism and imperialism in Europe and U.K. was undoubtedly remarkable. This monograph is being published in English, Hindi and Malayalam.

The monograph consists of two parts. Part one contains a profile of Shri V.K. Krishna Menon, giving a brief account of his early days, his education, his ideas, his role as a freedom fighter and as a spokesman of our freedom movement in Europe, his association with Pt. Nehru, his memorable contributions in various World Forums and his role as an eminent parliamentarian especially as the Defence Minister. Part two contains excerpts from some select speeches delivered by him in the Lok Sabha and Rajya Sabha on diverse subjects.

On the occasion of his birth anniversary, we pay our respectful tributes to the memory of Shri V.K. Krishna Menon and hope that this monograph would be read with interest and found useful.

New Delhi;  
July, 1991

**SHIVRAJ V. PATIL**  
*Speaker, Lok Sabha*  
*and*  
*President, Indian Parliamentary Group*

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**PART ONE**  
**His Life**

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## V.K. KRISHNA MENON—A profile

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Krishna Menon was undoubtedly one of the most fascinating and equally misunderstood personalities of our times. There was in him a paradoxical combination of reason and emotion, logic and passion, sarcasm and affection.

His birth took place in a matriarchal Tharavad in suburban Malabar on 3 May, 1896. His father, Shri Krishna Kurup and mother Smt. Lakshmi Kutty Amma were simple souls and had the dignity of tradition. His father was a prosperous lawyer and a land-lord and was famous for his blunt matter-of-factness and his sense of right. His mother was an accomplished scholar and musician and was a very firm person in matters she thought right. She was as independent as her husband was dynamic. Those who were close to Menon's parents are not surprised when they heard of his so-called arrogance, his sense of urgency and obstinacy.

There are very few politicians in our country who faced criticism both at home and abroad as Krishna Menon did. Those who tried to denigrate India, faced the wrath of his so-called arrogance. Against hypocrites, his words were acid and bitter. For him the most difficult commandment to obey was that which exhorts one to suffer mediocrity gladly.

Unlike an average politician he did many things, that were not good for his political career. He did not hide his emotions. There was no element of compromise in his personality. In the lobbies of Parliament, he would walk past important Cabinet colleagues without even a customary greeting, just because he did not like their points of view.

He was as much frank essentially as he was rude outwardly.

His close associates were habituated to his outward rudeness so much as to feel uneasy when he was polite to them. Ms. Bridget Tunnard, who worked as his Secretary for many years had occasions to protest, 'Damn it, boss, you are polite to me today. What have I done wrong?'

He was harsh and at the same time affectionate towards people working with him. Once at the gate of Ministry of Defence in New Delhi a watchman who knew no English, irritated the Minister who knew no Hindi. Menon flared up at him and went into his office. Almost immediately a call came to the watchman from the Minister's office. When he entered the office Menon told his Secretary, 'I shouted at this man while I was coming in! Tell him, 'I am sorry. The watchman who went in trembling with fear came out with tears in his eyes.

He had his own sense of humour as well. He was ill on one occasion. A group of Indian pressmen who called on him saw him shave after a week and said "you will feel better after a shave". Menon quipped, 'I will feel the same, but those who come to see me will feel better!'

He was not interested in biographies and biographers. He used to say that it does not matter as to 'where I was born and what kind of food I ate. All that matters is what I have done. You can analyse this work impersonally and that is all that need be done'.

In his father's household, Menon enjoyed a privileged life. But it made him grow into a 'reserved' person. Among friends, he was domineering and boisterous.

### **Education**

He first went to school at Tellicherry. He studied at the Municipal School there and also for a year at the High School of Brennen College, a-Christian Missionary Institution. The characteristics of his parents of determination and stubbornness were abundantly evident in his school days.

From the school he went to his father's old college namely Zamorian's college, and spent two years there studying ancient

Histry, Modern History and Logic. He passed the intermediate examination in 1915 and then joined the prestigious Presidency college in Madras. He took more interest in extra-curricular activities than the class-room studies as was the prevalent practice in those days. Whereas his friends considered him to be an aggressive speaker, his teachers considered him to be an embarrassment because he always talked about the legitimacy of the freedom struggle and how our people's aspirations were being neglected by the British.

### **His role as 'a freedom fighter and as a spokes-man of freedom movement in Europe.**

Young Krishna Menon came early under the influence of Mrs. Annie Besant and that saw him out of the Madras Law College, a few months after he joined it. He joined Mrs. Besant's Home Rule Movement and found that she was a natural leader for him as she possessed the kind of a leadership he was looking for. She inspired Menon with her invaluable qualities of fearlessness, flair for social work and a sense of discipline, all of which were very dear to him.

The Irish blood and Indian inspiration in Mrs. Annie Besant was responsible for her starting the Home Rule League from Madras and all of a sudden the red-and-green flag of that League started fluttering atop the Presidency College building at Madras. Krishna Menon's first act of political self-expression took place when he was a student there. He defied the establishment like no one had done earlier and hoisted that pennant. Thus, by this act, Krishna Menon had become the standard-bearer and a spokesman for the cause of India's freedom.

Krishna Menon's life while at Madras was austere to the core. He dressed himself carelessly in coarse clothes and was often seen bare-footed and usually slept on a wooden cot. This Spartan Gandhian habits stood him in good stead later in his life. He was throughout a vegetarian, teetoller and non-smoker, never taking a solid meal but just managing to survive on cups after cups of tea, sometimes running into a hundred or hundred and fifty cups per day, and a few biscuits. He could do with as little as two hours of sleep per day whenever the workload

demanded it: All these rough corners in his personality probably contributed to his deciding not to get married which, in fact, was regretted very much by his friends. They felt that marriage would have given him companionship which he needed very badly.

Having carried out the very first responsible task of organizing Scouts in the then Madras Presidency with great efficiency, Menon richly deserved his subsequent appointment, for the Malabar-Cochin territory as the Scout Commissioner.

He went to London in pursuit of higher studies. Enrolling himself for a teacher's diploma course in Britain in 1924, he also taught History for a year in St. Christopher's School in Hertfordshire. He obtained the diploma in 1925 and about his experience during the period, he says:

"I began to feel consciously after my first few days and months in England, that humanity—people—men, women and children are much the same everywhere."

Menon subsequently joined the Commonwealth of India League which was earlier called Home Rule for India British Auxiliary. He had many new ideas and programmes to contribute to this League of which he was elected as its Joint Secretary in 1928. He got the words 'Dominion Status for India' substituted by 'Freedom and Self-determination for India'. After listening to Pandit Nehru's address at Lahore Congress, he changed the objective of the India League to 'Self-rule or Swaraj'.

Krishna Menon studied political science under Prof. Harold Laski at the London School of Economics. Prof. Laski described Menon as, 'the best student I have ever had'. He also said: 'I have taught Krishna Menon but it was not always he who was at the receiving end'.

Similar sentiments were also expressed about Krishna Menon by Prof. Spearman, the former's Philosophy teacher. According to him, 'Krishna Menon was a man of extraordinary ability and exceptional energy. Unless I am mistaken he is destined to become a man of worth.'

Apart from India League, Menon utilised the Labour Party and the Socialist League in Britain also to further his mission in life. The latter received Menon's dedicated and invaluable services for years on end.

Having enrolled as a Member of the Labour Party in the very year in which he arrived in London, Menon was subsequently elected to the Borough Council of St. Pancras on this party's ticket.

He proved himself to be a speaker of extraordinary perception and an organizer par excellence in the field. Later in life, Menon was honoured with the 'Freedom of the Borough', a great accolade of British Municipal life for the invaluable services he had then rendered to the Borough. The only other person to receive such an honour was George Bernard Shaw.

Menon was responsible for arranging to move the resolution of Indian independence at the Annual Conference of the British Railway Union in 1945. The Cabinet Mission to India was a direct result of this endeavour.

But for Menon's spade work and the crucial role played by Prof. Laski, the then Chairman of the Labour Party, it is doubtful whether Labour Party would have adopted the 'Independence for India' resolution in its forum. And this is what Menon had said during that Labour Party meeting:

"Labour is committed to self-determination. Indian nationalism will not accept and British socialism will not be helped by any other arrangement. Finally let it be faced frankly that socialism in Britain cannot be built on the basis of imperialism abroad. This is still the crux of the Indian problem".

Not only did Menon help arrange meetings between British Labour leaders and Gandhiji and Panditji during the latter's visits to London, but he also played a crucial role during the Round Table Conference of 1931.

Helping to organize Panditji's programme in London during the days of India's Freedom struggle, brought about a bond of

confidence and esteem between the two individuals. Both abhorred fascism and had a sheer faith in socialism and secularism. This is what Nehru once wrote to Krishna, as he used to call Menon, on what he felt about the latter:

"I am not in the habit of hurling compliments especially at people, but you will understand me clearly when I tell you that it was a delight for me to come in personal touch with you. I would have been very much at a loss without you to turn to in London".

Given such a high degree of warm personal relation-ship, it is no wonder that the powerful political partnership between the two continued all through their lives.

Being far from parochial in their attitudes, Nehru and Krishna, both westernized, shared the view that the occident could offer some solutions which the orient lacked the ability to deliver.

Nehru's confidence in and esteem for Krishna resulted in the former as President of the Indian National Congress deputing Menon as its representative to the International Peace Congress at Brussels.

Congress leaders were impressed by the effective presentation of India's voice at Brussels by Menon. However, Menon felt that a more concerted action on the international front was necessary and he made this clear to Nehru:

"Not only a policy but a considered action in international matters is now essential. It follows from the stature of the Congress in recent years"

Nehru on return from one of his visits to London wrote to Dr. Rajendra Prasad, the then President of the Indian National Congress, conveying the former's assessment about the work being done in London by Menon.

"V.K. Krishna Menon is the man who is running India League which is definitely socialist in outlook. He is very able and energetic and is highly thought of in intellectual and journalistic and left wing Labour circles. He has the virtues

and failings of an intellectual. I was favourably impressed with him”

It is not a well publicised fact that Menon played an important role in the selection of Lord Louis Mountbatten as Viceroy of India by the Labour Government.

During the transfer of power negotiations also, Menon had played a very important role. This is what Lord Mountbatten says about Menon's role:

“We discussed every aspect of the plan now being worked on, and in particular of its relation to the world situation, I found that Krishna Menon had very shrewed views on the future trend of governments in the U.K., and America and on world-wide politics”

Thus, it is clear that Menon was the unofficial Ambassador of the Indian freedom movement much before the country became free and he himself was appointed the first official High Commissioner of free India in Britain. But this appointment of Menon as High Commissioner was not without certain hassles. When Nehru conveyed his intention to the British Prime Minister, Mr. Atlee, the latter told him that it would have a cool reception in the U.K. Mr. Atlee's reaction was understandable because only less than five years earlier, the British had been looking for a suitable occasion to send Menon out of U.K.. How can they digest the idea of the same Menon hoisting Indian National Flag in the India House where on many occasions, the doors were slammed on him? However, the Prime Minister of independent India taking a decision to send Menon there was an hour of personal triumph for the latter.

Menon executed very successfully another assignment as roving ambassador of European countries, a work entrusted to him by Pandit Nehru. Because of this endeavour, independent India could establish diplomatic relations with many European countries.

Menon demitted office of High Commissioner in the year 1952 after serving for full five years. Pandit Nehru requested him to proceed to the United Nations and join Indian delegation



there as its Deputy leader. When Smt. Vijaya Lakshmi Pandit left the United Nations, Menon became the natural choice for the leadership of the Indian delegation at the United Nations. He represented India's stand on various issues, such as the Korean issue, the Arab-Israeli conflict, the question of membership of the Security Council, the Kashmir issue, the Algerian issue, the admission of China into the United Nations, the Suez crisis, Hungary, Disarmament and Apartheid. Menon first represented India at the United Nations in 1946 as an alternate representative. He also represented India on the political and trusteeship Committees of the Assembly.

About his stand as Leader of the Indian Delegation at United Nations, even his critics concede that since its founding, Menon was one of the few diplomats who made an impact on it. A Canadian Diplomat once observed:

“When Krishna Menon is around, ideas buzz around like nuclei in an atom. He can think up a solution for any problem, however knotty”

Bringing about the end of the Korean war was the hallmark of the Seventh Session of the U.N. General Assembly. Menon had an important role to play in the preparation of the Korean armistice plan that brought him into the limelight globally as a Statesman of substance.

Indo-China problem was a unique one among the post world war-II problems. The issue was entrusted to a nine-nation group. When there was a deadlock among them, Menon became the unofficial go-between and from behind the scenes. He succeeded in finding a solution to the deadlock.

When Britain, France and Israel had attacked Egypt and took control of a large part of her territory including all important Suez canal, Krishna Menon firmly spoke against this aggression and played a crucial role in mobilising U.N., and world opinion to get the aggression vacated. That endeared him to the Egyptian people so much that it was said that many boys born in Egypt during the crisis were named after Krishna Menon.

#### **Views on different issues**

About disarmament, Menon firmly believed that there is no

meaning in making any distinction between nuclear disarmament and the reduction of conventional weapons. He, therefore, repeatedly stressed that point that there should be a comprehensive disarmament plan which would include suspension of nuclear tests, an armament truce, a reduction in budget of all Governments in their expenditure on military establishments. In 1960, he said this, speaking before the Political Committee of the General Assembly:

“Pending a disarmament convention, pending an agreement on disarmament-and my delegation does not merely say it this year, it has said it from the very beginning - there should be a complete prohibition of the manufacture and the use of weapons of mass destruction. We have never had any reservations on this matter, there is only one thing to do with nuclear, thermo-nuclear and similar weapons. We cannot mend the situation, only end it”

His advocacy of the Kashmir issue at the United Nations brought to fore not only his diplomatic abilities but also his expertise on international law and constitution. His stylish presentation of Indian case on Kashmir issue saw the end of that issue on the living agenda of U.N., and converted that into a bilateral issue. A glimpse of his thundering speech running into 7½ hours on the Kashmir issue is:

“Why is it that we have never heard voices in connection with the freedom of people under the suppression and tyranny of Pakistani authorities on the other side of the cease-fire line? Why is it that we have not heard here that in ten years these people have not seen a ballot paper? With what voice can either the Security Council or anyone coming before it demand a plebiscite for a people on our side who exercise franchise, who have freedom of speech, who function under a hundred local bodies?”

He collapsed after delivering this speech but immediately recovered to attend the afternoon and next day's session against the wishes of his Physician.

Thus, there was no step that U.N., took which did not have Menon's imprint during the time, he represented India at U.N.

On many issued that engaged the world's attention, Krishna Menon had constantly advised Nehru. He was the first one to advise Nehru that India should not be a party to the signing of the treaty with Japan at San Francisco. Instead, he advocated for a separate bilateral treaty with Japan which treated Japan as an equal partner and not as a defeated nation. That made a deep impact on the minds of Japanese people and created a psychological asset which has not yet been exhausted.

### **Exponent of India's Foreign Policy**

Krishna Menon was first elected to Rajya Sabha in 1956, from Madras and was appointed Minister without portfolio. But he continued to look after India's foreign policy matters. he believed that India's foreign policy should be directed towards:

- (a) strengthening of relationship with friendly countries;
- (b) the neutralisation of hostile forces;
- (c) the maintenance and promotion of national independence; and
- (d) the furtherance of world peace

Upon his election to Lok Sabha in 1957, Nehru appointed him as Minister of Defence. During the preceding election campaigning in the north Bombay constituency, Nehru projected Krishna Menon not only as a spokesman and exponent of India's foreign policy but also as the one who had contributed significantly to its evolution. Nehru sought votes from the people for India's foreign policy manifested by Krishna Menon. Needless to mention, Krishna Menon won by a big margin.

Jawaharlal Nehru thought that Krishna's long and rich experience at the U.N., had provided him with the necessary vision into relations between nations and that this would be useful to evolve a defence policy that suited the country.

## **As Defence Minister**

Krishna Menon as Defence Minister, laid emphasis on strengthening national self-reliance. He declared that the defence production base could not be separated from the economic and industrial infrastructure of the country. The Tank Factory at Avadi, the Bharat Electronics and Hindustan Aeronautics in Bangalore and Avro Units in Kanpur are some of the monuments that keep Krishna Menon's memory alive eternally.

Krishna Menon firmly believed that India cannot depend entirely on the West for her defence requirements. Self sufficiency in defence was the need of the hour and we had to achieve that at any cost.

During his ministerial tenure, he paid attention to the mental development of the people who were looking to him. It is because of him that Armed Forces Medical College at Pune was started. He was also responsible for starting evening classes for employees that prepared them for examinations of the Institution of Engineers. Sainik Schools owe their origin to him. He also took a lot of personal interest in popularising National Cadet Corps and Territorial Army.

Integration of Goa in December 1961 and the conflict with China in the following year were the two major events that attracted the World's attention during Krishna Menon's tenure as Defence Minister. He held the view that if India had sent Portuguese people out of the country in 1947 itself, nobody in the outside world would have said anything; rather they would have expected it. He used to ask when the British empire had to go from here, why should the Portuguese empire have remained there? He believed that Goa was a matter of colonial liberation. At a public meeting in Bombay in October 1959, he declared:

“Goa is our territory. It must be liberated by us—that is part of our unfinished business. Whether the territory of Goa is

liberated by means of force or by means of persuasion is a question we ourselves will have to decide”.

Krishna Menon took control of the situation and in consultation with the three service Chiefs, he decided on a date. Such was the precision with which our Armed forces had swung into action that within 30 hours of the operation, Goa was freed. It was one of the smoothest take-overs in military history.

India had cordial relations with China till October 1950, when all of a sudden China occupied Tibet in a shocking manner. A sharp exchange of notes between the two countries took place. But China could not appreciate India's stand on the Tibetan issue and it maintained that India was acting in collusion with imperial powers.

China, thereafter, started provoking India with its hostile attitude, occupying Khurnak fort in Ladakh and publishing a map showing some parts of India as “within the approximate borders of China”.

India was almost convinced in 1959 that given the attitude of China at that time, there was no use in trying to sort out the border issue through negotiations and goodwill. The Defence Minister, Krishna Menon realised the need for a new border road and got an area of about 4000 sq. miles covered with new border roads in Ladakh area. On 21st October, 1959, China first opened fire on an Indian patrol near Kongka Pass and then attacked India in full earnestness later. Though India had an emergency defence plan it could not work well for various reasons. Suddenness of aggression and the bigger size of the enemy forces, lack of effective coordination and personal distrust among senior army officers, snowy mountainous terrain which was quite new to the Indian army, inferior quality of weapons, lack of effective communication facilities etc., can be stated as major contributory factors for India's poor showing.

After this unfortunate event, there was a furore both in and out of Parliament for the resignation of Krishna Menon. Even

ruling Congress party members themselves demanded his resignation. But newspapers were very harsh on the role played by him during the war period. They went to the extent of accusing Menon of deliberately letting down the country.

In November 1962 Krishna Menon resigned as Defence Minister. He was then appointed as the Minister for defence production but he had to resign from that position also in the wake of strong protests by Parliamentarians. Indira Gandhi in her book "My Truth" had said that her father started failing in his health with the departure of Krishna Menon from the Cabinet.

Krishna Menon was denied a Congress ticket in parliamentary elections from Bombay in 1967. He was pained to learn that one of the factors that weighed with the leadership was that he did not belong to Bombay. However, he contested as an independent from Midnapore in West Bengal in 1969 and got elected to Parliament. In 1971, he got elected to Parliament from Trivandrum again as an independent.

### **As a Jurist**

After his resignation from the Government, Menon started practice in the Supreme Court as a Senior Advocate in company with a group of progressive lawyers. Labour matters were his preference and he took them up even without charging any fees.

The former Supreme Court Judge, Justice V.R. Krishna Iyer summed up Menon's legal career as:

"Great human causes, not petty problems find the jurist in him ..... he is halting in hunderd areas but heroic in the higher values of our legal political system"

He was a visiting Professor at the Delhi University. He founded the journal "The Century" too.

Menon was deeply hurt by two incidents after his resignation from the Government; one was the death of Nehru and the other was the circumstances that led to his resignation from the Congress party. Both within and without Congress, his

quintessential image as a moulder of modern India rested firmly on his unequalled intellectualism.

He was in and out of hospital in the last year of his life, 1974. When he was out of hospital, he used to accept invitations to meetings in several parts of the country.

When the death came in the early hours of 6th October, 1974, tributes began pouring from far and near highlighting the legacies and relevance of Krishna Menon.

Prime Minister, Indira Gandhi provided the most appropriate summing up of that eventful life:

“A volcano is extinct. Krishna Menon was a person of deep conviction, with great intellectual power and passionate dedication to the country’s causes. His pioneering work as the spokesman of our freedom movement in Europe and as a link with radical movements of other countries is part of our nation’s history ..... He was a crusader for the building of a new international system. He worked with persuasion to push the country towards self-reliance”

Jayaprakash Narayan, his political adversary mourned:

“Mr. Krishna Menon remained a controversial figure throughout his political career. But his worst enemies would not accuse him of insincerity or lack of integrity”

Acharya Kripalani who suffered defeat at the hands of Krishna Menon in North Bombay parliamentary constituency in 1962 observed:

“Mr. Krishna Menon had the courage of his convictions and never hesitated to express his opinions forcibly. He espoused the cause of Indian independence in England with fervour and passion, and rallied much support through the India League”

Among the tributes that came from abroad, one from Earl Mountbatten said:

**“He gave great service to the two countries he loved so dearly. Let neither country forget their debt of gratitude to him”**



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## **PART TWO**

### **His Ideas**

(Excerpts from some select speeches of  
Shri V.K. Krishna Menon in Parliament)

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## 2

# Geneva Conventions Bill \*

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Mr. Speaker, Sir, I beg to move :

“That the Bill to enable effect to be given to certain international Conventions done at Geneva on the twelfth day of August, 1949, to which India is a party, and for purposes connected therewith, be taken into consideration.”

This Bill consists of 20 clauses and 4 Schedules. The 4 Schedules are the Conventions that were done at Geneva on this date in August, 1949. The House will, no doubt, consider these clauses of the Bill in detail later, but the purpose of this is that our Municipal Law should have the authority to implement the purposes of the Conventions which our Government would have to have undertaken to honour.

It is not inappropriate to go a little into the background of this matter, particularly for two reasons. First of all, all these Conventions are based upon humanitarian principles. While it is true they have become elaborate in this form today especially after the formulation of the Declaration of Human Rights by the United Nations, it has a long history. But before one traces that history it is necessary to differentiate between two matters. There are agreements between nations and, perhaps, agreements which have the character of law which deal with the conduct of war. This Bill does not deal with that aspect of things. It does not deal with conduct of war, but it deals with conditions, humanitarian conditions that must be observed if there are hostilities. In this matter, Sir, I think it is only

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\* *L.S. Debate*, 9 February, 1960

appropriate that this House should pay tribute to the International Red Cross which is responsible for these Conventions for over a hundred years.

Somewhere about 1860 a Swiss gentleman expressed two wishes: one was that a public society should be formed to take care of the wounded in war, and, secondly, that governments should give recognition to that society. The next year, in 1863, I believe, the nucleus of the International Red Cross was founded and in 1864 emerged the first Convention relating to this matter. Mr. Speaker, Sir, it will also be remembered 1864 is about the proximity of the period when after the great Neopoleonic wars and the attempts to create peace in the world beginning with the Congress of Vienna—further wars broke out—and the emergence of the Peace of Westphalia which is regarded as one of the landmarks in the history of peace developments. 1864 thus marks the beginning of a series of Conventions which have been amended afterwards. Other Conventions have come in afterwards, notably the Hague Conventions of 1907, 1929 and the Convention of 1939.

This Bill consists in its Schedule of 4 Conventions dealing with four separate but related matters. One deals with the treatment of those who are wounded and so on land of the Armed Forces. The other deals with the treatment of those who are ship-wrecked at sea and who are to be treated in that way. The third and the most important of these Conventions is relating to the prisoners of war. But, as I said in my earlier observations, perhaps the fourth Convention is the most important from the point of view of the development of human civilisation because it deals in this matter, for the first time, with the treatment of the civilian population in the consequences arising from war.

Mr. Speaker, it may be well asked why, when these Conventions were ratified by the Government and in our system the ratification rests with the President, this matter should have been brought before the House. It is because, as I said, our Municipal Law requires powers in order to implement them. There are certain rule making powers sought to be taken in this

Bill. The Bill also seeks to confer upon our courts certain powers in regard to offences committed in violation of this Bill. The Convention, soon after the war and after the trials of Nuremberg and all the publicity of the atrocities that it received and the newer conditions of war of 1939, was responsible for creating degree of public opinion for the immediate formulation of these Conventions. But it must be said in fairness to those who have been promoting these matters that there was a proposal to hold a conference in 1940 in order to further the purposes of the Conventions of 1939 and to bring it to the present stage. Then the war intervened and the whole thing was suspended.

In 1949 three sets of people met in Geneva. One set of people were those who were deeply affected by the atrocities of the war. The others were those who were neutral nations and who did not participate in the war. The third set of people were other nations like ourselves who as states participated in the war but who brought to bear an objective view on it. So from 1946 onwards the International Red Cross convened various meetings and as a result of that a diplomatic conference was called in Geneva in 1949. Our Government had taken a very important and leading part in the formulation of these Conventions. Sir Dhiren Mitra, Legal Adviser to the High Commissioner at that time, and his legal assistant Shri Narayan, were delegates to this conference. Sir, Dhiren Mitra became Chairman of the first committee and our delegation had a considerable part in the formulation of these conventions.

I will deal with them one by one. Coming to the development, we note the first Convention of 1864; then we go on to 1906 and then to 1929 and the present one of 1949. In regard to the first Convention, it deal with those who have been affected by war conditions on land. It is interesting to find that the first Convention was the second of the two Conventions; the first relating to the shipwrecked at sea came in earlier. The Convention relating to the conditions of the wounded the

and subsequently revised in 1875, 1906 and 1929 and it was finally revised in 1949.

The second Convention relating to the amelioration of the conditions of the wounded and the sick in maritime warfare was first passed in 1907 and revised in 1949. The Convention relating to the prisoners of war was first passed in 1929 and subsequently revised in 1949. The Convention for civilians was for the first time drafted in 1949 and I shall have to say a few words about it towards the end.

If the House looks at the Bill, as printed, it will find that there are common parts in all these Conventions. Article 2 of each of these Conventions contains the following provisions :

“The present Convention shall apply to the all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by any one of them.”

Then,—this is an advance from the previous situations—

“The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.”

“Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.”

You will notice that in these common parts, the Convention was applicable to war in the very widest sense of the term. These definitions to which most of the States were parties were accepted at the Geneva Convention at the time and in the state of affairs which prevailed in the world at that time largely because the wars, the first world war and more particularly the second world war, had begun to affect the civilians and were affecting large casualties, and the conditions changed in the world,

combined with the stirring of human conscience in these matters, and these brought about this wider definition.

In the course of the debate, if further elucidation of these matters is required, with your permission, I shall do so. But I would like to come to the most important of these, namely, the fourth Convention. In the fourth Convention, civilians have been brought in. It is necessary for us not to feel romantic about this matter, because, while the Convention applies to civilians as a whole, the experience of the past has been that when war breaks out, the whole thing is largely conditioned by political consideration. I believe that the Convention of 1907—by this time operation in the air has to be considered as part of possible war operation—did provide for the bombing only of military targets, but there was a proviso added to it that if there is any surrounding area which was related to the military targets, it might also be severely bombed. But anyway, the experience of war by the bombing of Germany round the clock and all the bombing that took place made a dead letter of this understanding. So, even though the fourth Convention does provide for the protection of the civilians in the conditions of modern atomic and hydrogen war it has very little application of a law as it depends upon the political settlements that are brought about.

With regard to this Bill itself, the first chapter deals with the definitions. The second chapter is probably the most important because it makes the change in our jurisprudence and our law; that is to say, until now, the jurisdiction of our courts was in regard to our nationals or in regard to offences committed in this country by the nationals of other countries. This Bill makes a change; a change that has been accepted in after countries and it is a change on the older systems of jurisprudence. That is to say, those who are violators of this Convention, whether they happen to be nationals of this country or not, whether the offence takes place in this country or not, would still be under the municipal and criminal jurisdiction of our courts. That is a departure from our legal system as it stands at present with all its consequences. That is to say, if there was an offender against these conventions and even if an offence was committed by a man who was not a national of ours, if at

at the time when he is apprehended he is in this country, he would still be under the jurisdiction of our courts and be punishable thereby.

Clause 1 prescribes the penalties for these offences and the offences which are described are common to all the Conventions. The punishment is :

“Where the offence involves the wilful killing of a person protected by any of the Conventions, with death or with imprisonment for life; and

In any other case, with imprisonment for a term which may extend to fourteen years.”

There are a number of offences to which reference has been made: killing, torture, maiming and things of this character which are set out in the Conventions. To those who are liable to punishments for such offences, the punishment may be a sentence of death or imprisonment for life “and in any other case, with imprisonment for a term which may extend to fourteen years”.

Breaches of all these offences are mentioned in the respective articles: in article 50 of the first Convention; article 51 of the second Convention; in article 130 of the third Convention and in article 147 of the fourth Convention. They all provide for these breaches. That is the first part of the Bill that is now before the House.

I would again like to draw the attention of the House to the fact that we are making a departure from the ordinary criminal jurisprudence of our country in this matter. These are cognizable offences.

The third chapter, which is the second main part in this Bill is with regard to the rights. First, I would deal with the penalties against the violation of the Conventions. In the event of war, if there are a large number of interenees in one country and if these matters should come up either at the time of war or hostilities or soon afterwards, the rights of the individuals even though they are enemies and even if they are people, engaged in hostilities are often likely to be overlooked. Therefore, since this Convention proceeds from humanitarian motives the whole



background and the approach should also be a humanitarian one; and chapter III provides various provisions and all of them are intended to protect the rights of the persons concerned. These rights will include that when a "protected internee is brought up for trial for an offence for which that court has power to sentence him to death", it would also give him a right of legal defence and the right to information as to place of detention, internment and residence and of the offence with which he is charged before the trial takes place, and the information is to be given to him even though he is in internment and even though he is not one of our nationals and may by that time be a part of a hostile country.

A prisoner may also be in some way represented by others according to his choice. This chapter deals at great length with the rights of internees and the rights of protected persons and the rights of prisoners of war. It is not uncommon that prisoners of war are being used for purposes for which they should not be used. A prisoner of war is intimidated and interrogated. Normally, a prisoner of war may be only asked to give his name, his address and his regiment number or whatever it is. But, as a matter of practice, there have been departures from this, which have been brought to the attention of the various countries concerned. It also provides for appeal, etc.

The fourth chapter deals with the third set of material connected with this Bill, *viz.*, protection of the emblems of Red Cross, Geneva Cross, etc. Protection of three emblems is mentioned. They will be more or less protected in the same way as trade marks or patent rights, the infringement of which would be subject to penalties under our law.

This is the main outline of this legislation. I do not know whether it is necessary for me to go into it at great length, except that I would again like to lay stress on the fact that the Fourth Convention is an important departure from what has taken place in the world. That is to say, if the people concerned are in territory occupied by any other country or if they form

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part of any kind of disciplines body as such, they would still come under the operation of these Conventions. We had our recent troubles, for example. When our patrols go forward under proper formation, if they are taken, even in the other person's territory outside our territory, and if they are in conditions of custody, then they become amenable to the provisions of this Convention. First of all, if the country concerned has been a party to the Convention, of course, she becomes responsible. But even if the country concerned is not a party to the Convention, she can accept it. In this particular case, China is a party to the Convention and therefore any action taking place in this way comes under the provisions of the Convention.

These were ratified, as I said, five or six years ago. Nothing very much has been done since neither here nor in other countries. Newer provisions have been introduced creating newer situations. In countries like England, legislation was passed in 1957. We have been considering this legislation for nearly a year and now it has come before the House in this form. I have deliberately tried to keep my observations within a short compass in order not to weary the House. No doubt when clauses are discussed, the other things can be dealt with.

The Geneva Conference also passed a number of resolutions which are not in this Bill, but have been communicated to Governments, as they are only requests to implement the Conventions. There is one more matter to which I would like to refer before I sit down, viz., the Final Act of this Convention. As you are aware, the Final Act is not part of the Convention; it is a kind of declaration, which is a matter of great importance to a country like ours. That these differences of outlook have been overcome and have resulted in the drawing up of Conventions which have now been signed by 61 countries, including those Eastern European countries which are at the present time finding it difficult to co-operate with other nations in the field of international affairs must be regarded as a victory for those principles of justice and humanity, which, since the first Geneva

Convention of 1864, have characterised the international Conventions designed to alleviate the sufferings of war. Until war has been finally abolished, the necessity for international agreement to minimise the effects and evils must remain. The ideal for which all nations must strive, if they are to avoid annihilation, is set forth in a resolution annexed to the Final Act of the Geneva Conference which affirms the desirability of a "friendly settlement of differences through co-operation and understanding, between nations", so that "in the future, Governments may never have to apply these Conventions for the protection of war victims", meaning thereby that there would be no victims of war, because there should be no war. That Final Act also makes us recall the idea that the whole thing is based on humanitarian considerations.

If I may refer to a personal experience, when there was a deadlock in Korea, a solution had to be found on the basis of the Geneva Conventions. That was what motivated China at that time to accept the Convention; it was on the basis of humanitarian considerations involved that it was possible to overcome some of the very sharp political differences which existed between the two parties.

It is also something that should gladden our hearts that humanity today has come to realise, irrespective of political differences, that certain principles of humanitarian conduct must be laid down in the hope and conviction that even if there were hostilities, these rules would be observed. While I see that in conditions of atomic and hydrogen warfare they are bound to be totally disregarded, otherwise, the practice of torture and cruelties of that kind will be somewhat alleviated. The relief required for the wounded, information to be given to the relation, etc.—all these provisions are there in the Fourth Convention. I am sure these Conventions would remind us of the progress that the human race is making in this matter.

Serious suggestions have been made in regard to the enforcement of these provisions, namely, that they would remain a dead letter, whether we could not set up an international authority, whether some country—this country, it

was suggested—could not be an asylum for people to come in and so on. With great respect I may say that this kind of sentiment comes very often from idealistic people and it completely ignores the realities of the world and the realities of United Nations. There is no international authority in the world. The United Nations is not a super-State. It would be contrary to the purpose of the Charter if the personalities of member-States were to be ignored. The only sanctionary power that comes in international decisions is by measures of this kind by the sovereign legislatures of the sovereign organs of the country operating according to agreed decisions, whatever they are. We are all free nations. The smaller the nation the less it would be willing to give up its power in that way. They may contribute when the time comes when there is world law and world authority. They may perhaps change but at the same time, it is difficult enough to get nations together to agreement on small matters. In this convention itself, if it was necessary to go into the history of it, one would have pointed out that it represents a compromise between nations who do not go to war and who do not suffer by it, and nations who suffer by it, and who raise objections to their nationals being tried by others. This is a kind of compromise between all of them. It would be impossible in this world today to have a super-State authority whose will will prevail. Ultimately, as things are, sanctions depend upon force. If a law that was emanating from a super-State were passed on to individual States which have to accept it or obey it or conform to it and if that was not done, the suggestion is that there should be action taken. What action would that be? There is no provision now. We have gone further than the previous laws in this by bringing a foreign national within the municipal jurisdiction of another country. This is a great step forward. But it is suggested that a country should be forced. The ultimate force is war. That we are trying to avoid. This arises from the idea that the United Nations is really far more powerful. Its character is rather different than what it is. It is not a super-State, it has no executive authority, it has no legislature, its General Assembly is not a Parliament. It is merely a concert of nations representing public opinion of the world and it is

described in the Preamble of the Charter, "We, the people of the United Nations". When it comes to its operational aspect, it functions through its various organisations where even the form of resolutions is to leave things in the air. Every resolution that is passed by every organ of the United Nations, apart from the Security Council, simply says, "It recommends". It does not say recommends to whom. It says recommends and leaves it there.

Therefore for doing anything to prevent in this matter, we must depend upon the countries adhering to the Convention, carrying out their obligations. That applies to all conventions. There is no law in the world. There is no world law which can compel the adherents to a convention. All I can say is that at best all the consequences of treaty breaking follow. In this case, they are moral consequences. In other cases, other sanctions may arise. The convention is adhered to, it is deposited in the United Nations and when it is deposited it is generally believed now that there is something like a sanctity of a treaty. But, of course, it all depends on, in international law, what you can obtain.

What happens to countries that are not parties to the convention? The Convention naturally binds only those who accept it. But in practice, it is open to the party accepting it, if the party on the other side is not an accepting party, not to give the benefits of it. But it becomes a convention for the party accepting it to accept it as a moral obligation, to carry out its implications because the whole thing, as said, is based upon humanitarian conditions and conditions of conscience.

## INDO-PAK RELATIONS\*

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In common with the overwhelming majority of the people of our country and with the well-nigh unanimous sentiments, which have already been expressed in this House, I rise to accord full support not only to the Simla agreement, but also to the events that led to the calling of that meeting or conference. I think that it is to the credit of the Government that they were not put off by provocative speeches or by newspaper reports of adverse opinions and attitude in Pakistan in their approach for a conference, but steadfastly pursued it. A country that has been a victor in war can either sit on its conquest and prepare for another war or make for peace. Peace has been our consistent aim and policy since independence.

Not only Government and Ministers, but also the administrative, the diplomatic and other officers, who were at Simla in these conferences or had been involved in its work, contributed a great deal to its final outcome about which little is heard or said in public. They deserve our thanks and our appreciation. Much of the Council part of the work at conferences is not always or necessarily done when the final paper is signed.

I want to say at this stage, that so far as I am concerned, I am tied to this paper—the Agreement which is before us. I did not hear the Foreign Minister yesterday, thanks to our friends of the Jan Sangh! I do not know that there was anything more in what he said than there is in the document (of Agreement). I have this paper or this agreement with me. As Members of

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\* L.S. Debate, 1 August, 1972.

Parliament, and as individual members of the public, we are at least, to a certain extent, conditioned by what has gone on before and what has come after the events, the conference and the Agreement.

The definite commitment with regard to bilateral negotiations and agreements projects itself so much in this agreement. During the last ten or fifteen years or even more, other parties have intervened in the affairs between Pakistan and India, and whenever an agreement was possible between us or in other contexts in Asia as for instance, in Indo-China, they have prevented it or sought to undo peaceful settlements. Therefore, the aspect of bilateral relations projects itself very much in our mind. India has always from the very beginning of independence sought to follow this principle and process in international problems. Be it the Nehru Liaquat Ali agreement or various other conversations or conferences about Kashmir that our present Foreign Minister has indulged in, and whatever the results were, we have always followed this process of trying to talk to each other and chosen the path of bilateralism.

In international circles also, it was only when we were pressurised or had to give in as on various aspects of the Indo-China agreement or in Korea repatriation of prisoners problem that we succumbed to, or rather acquiesced in, the idea of third party intervention even when in both cases the third party was ourselves. In regard to the Korean negotiations and the Indo-China negotiations, we always held the view that when two parties were in conflict, it was a matter best settled between themselves. I am saying there is nothing new in the present bilateral approach except the significant agreement to which we all give support. It is not as though we are making a departure and eschewing the good offices of other parties at all or on appropriate occasions.

So this bilateral aspect of it, which even though it might have

been somewhat qualified by subsequent statements in Pakistan, particularly by Mr. Bhutto himself, as reported in the newspapers—I refer to the fact that they are newspaper reports deliberately, because we cannot, of course, say what all appears in the newspapers is necessarily true—is a distinct gain. So many things have been and are said in the newspapers. For example, it was reported that Mr. Bhutto had said that he would support anyone who was for self-determination in whatever part it was. If carried out, that, of course, would be contrary to this agreement and that would be an intervention in our internal affairs.

I say that the calling of this conference and the way that it came to some conclusions is a matter for congratulation for those concerned and of satisfaction to ourselves. It can and we hope it will open the way to peace. I am sure the Prime Minister would not misunderstand me if I say that we should also equally not be led away by the supporters of Government when they indulge in over statements, because they must be expected to overstate their case. No one can say that the agreement signed at Simla, which as the Prime Minister has rightly said is only a beginning, will bring about a durable peace between our two countries. There will be no lasting or durable peace between India and Pakistan until there is durable peace in the world. That is another question but not altogether so. The summit and the agreement that has emerged could help lower tension between our two countries and could be a contribution to even durable peace in the world also.

What has been agreed to at Simla, therefore, for one thing is that we negotiate bilaterally. Though there have been rumours circulated of other parties exercising pressure on our government, we need not pay too much attention to such as they appear to be guess work, gossip or just canards. Also in international affairs and discussions, on one side or the other, on both sides, things are said which may or may not be meant. I am not prepared to put up a defence of Mr. Bhutto or try to assess his mind. That is the External Affairs Minister's business and he takes the consequences.



The next point, I want to make, is that the Pakistan side has agreed that they will not interfere in the internal affairs of our country. Strictly carried out, and to the extent, it is so this is a vast improvement; because ever since partition, not to speak of earlier periods, our history has always been one of continued interference in our affairs by infiltration and various other ways by what is now the Pakistan side. Therefore, this is a distinct gain. I hope we will overlook small things and not allow the basic agreement reached to be jeopardised by reading too much into the varied and often contradictory statements that emanate from Mr. Bhutto or others.

I may now come to another question that has been debated here. I am not referring to the question concerning prior consultation with Parliament but that about the restoration of territory by us. Mr. Chairman, it will be a bad day for this country, if we were to say 'We keep what we conquer'. Conquest or annexation is out of the question for us; it would not be permitted by the world community, even if we sought to pursue that course. If we were to do so, we would become an imperialist country. Speaking for myself, I feel somewhat apprehensive even at the trade infiltration and agreement that have been taking place whereby there runs the risk, if we are not careful that we become another Anglo-Iranian Oil Company or something of that kind.

Anyway, we cannot take the stand that what we conquered, we keep. We seized some territory in the course of the war as a military operation. Whether that was correct military strategy or not, it was for, Government and their civil and military advisers to decide and set in the context before them. We went into the territory of Pakistan in order to ease the pressure on our own troops and to keep their forces occupied, and not with a view to take over their cities or their populations and make them ours. I think it will be correct to say that we have enough troubles of our own without taking on other people's.

Having said this, there are one or two military aspects arising from the new situation which we cannot afford to ignore or ignore

at our peril. Of course, it is quite easy to say in a public speech that we can take on anybody or are prepared for all eventualities. While we are all jubilant and elated at the liberation of Bangla Desh and their national aspirations having found fruition by their effort and our assistance, it should not be forgotten that in terms of strict, hard facts, it has also relieved Pakistan of a vulnerable frontier. She has now only one front to defend. The concentration that used to be in the East for colonial purposes is now available for other purposes.

The second aspect of this is that Pakistan is still not a country like ours, quite uninvolved with military alliances. She is still a member of SEATO and CENTO and she has supply of arms and equipment from elsewhere too and not from China alone. These are facts known to Government and there is no need for us to be unduly apprehensive about it. What we can do about it or not depends upon the decisions that Government each day may take.

It is also important for us to remember that in the last few months or years; the sinister adventurism of the American naval power in our waters and in the waters of Indo-China is something that cannot be forgotten. I am not at the present moment referring to whether the bombardments of Indo-China will terminate tomorrow or the day after. But let it not be forgotten that if the same forces were to assist the defensive bombardment of Pakistan, then we could be confined to fighting Pakistan only on land, and then other consequences also follow. There is no doubt in the mind of the Government of what arms potential we possess as well as our capacity to move them to advantage. We do not however, at present, possess,—and I am not revealing any secret—the naval craft even to patrol our vast seas effectively. What must be done, in my submission, is we must fit ourselves to patrol our seas. This is a matter of immediate and urgent importance in order even to avoid a war as such. We cannot longer delay the adequate development of our under water Arm to the proportions that exigencies now demand.

We now come to that part of the agreement or what it does

not say in words. The Prime Minister has been charged or credited with or as having otherwise made statements that she was going to Simla for what is called a "package deal"; whatever that means, or that she said, the basic questions must be settled. I confess I have not read any statement of this kind made by the Government in Parliament. Politicians make speeches; some of them are reported and parts of them are omitted. We cannot go by these reports of speeches. I have not seen any statement where it was said that the Simla conference was based upon the idea that there must be a full overall settlement.

First, let us see what a package deal is. What is package? A package is not a monolithic thing or packet. Package is an agglomeration of ingredients and, therefore, the ingredients must be brought together in order to make the package. So, talk of there being or not being package deal does not make any sense in the present case. So far as setting basic questions is concerned, without any disrespect to whoever might have used it, may I ask, if all basic questions are settled, why should there be a summit conference? Send a postcard and say "that the basic questions stand settled, and now shake hands." So, if the basic questions have to be settled, we have to begin from the periphery, arising from the attempt at dealing with simpler but important matters. If we do not have disengagement that this agreement purports to bring about or will bring about, then we will continue to be in a state of war, festering war, even though hotter war is concluded. We might well have been in the position of the 1965 war when there was a ceasefire agreement and there was no ceasefire.

I go further and say that in regard to the withdrawal from the territories we seized in this war, it is national duty and international obligation. If we stay in a conquered territory, we would become a conquering power and repeat the same mistakes of our former masters. Therefore, it is a great welcome, though expected, thing that without pressures on us we have said, "Take what is yours." but it also means that the other people must honour this obligation in the same way.

There are two posts at least in Tithwal. Tithwal is a historic place for us; a place where the Pakistan army took its punishment and was defeated in the battle and the ceasefire of 1948 followed.

That takes us to the question on which there have been no decisions. It is a good thing that there was no hasty decision or attempts as such because, if we had started that way, the Simla conference would either have lasted another two years or 20 years or whatever it may be or perhaps broken. The agreement says, "that the basic issues and causes of conflict which have bedevilled the relations between the two countries for the last 25 years shall be resolved by peaceful means." That is the expression that is used. Then, it goes on to the question of Kashmir which has bedevilled our relations for 25 years. It is stated: "In Jammu and Kashmir, the line of control, resulting from the ceasefire of December 17, 1971, shall be respected by both sides without prejudice to the recognised position of other side..."

So far as the present agreement is concerned,—it is no disrespect to anybody—it is an agreement to differ and to defer in order to attempt this matter to be peacefully settled bilaterally, settle it with adequate regard to basic principles. Therefore, it is important that we have now to express our understanding as to what are "settled positions." I have a certain amount of familiarity with this problem. I know of no occasion, no speeches, no commitment, no resolutions anywhere, where at any time, the Government of India has agreed to withdraw from any part of Jammu and Kashmir not even in any of the debate and parleys between 1948 and 1952. We have said that we will withdraw the bulk of our troops from the ceasefire line, when Pakistan and after Pakistan has withdrawn her entire personnel from Indian territory, *i.e.* all of Jammu and Kashmir, and provided that foreign Pakistani friends go out of the entire area occupied by them. Apart from that, at no time have we said anything about our moving in or out, here, there or anywhere. The position with regard to Kashmir is this. We are there not only in law, but on the basis

of all the other factors in J&K, on the basis of the legal accession of the State by the legal head of the State of that time, namely the Maharaja of Kashmir. It is necessary to say this, because everybody will say that Kashmir is our territory and leave the question of what is a territory. There is a lot of confusion also about the ceasefire line and it being a de fact boundary. It is not rather vague. Yesterday the speech of the Secretary of the Congress Party appears to have made the issue clear. The territory of Kashmir, which is part of the sovereignty of India, is all that territory that was under the sovereignty and the suzerainty of the Maharaja of Kashmir in 1947. It includes all those areas in Jammu and Kashmir now under the illegal occupation of Pakistan and also the 2,000 square miles of territory temporarily ceded to China by Pakistan.

What are the consequences of our taking up this position in this matter? I have stated publicly and privately this position. There is no reason at all to think that the Government has made any commitment adverse to our well known position in this matter. No Government of this country would dare to do so because the feelings about the integrity of this country are so deep-rooted that no Government could do so even if it wished. Any attempt to draw a line somewhere inside the state which is really the partition of Kashmir—would be resisted by our people at all times irrespective of whatever popularity the Government may at any time have. It may be that we would not wage war to recover and reoccupy the territory which is not in our possession if it were possible to recover it in other ways.

That takes us to what is called the realism of this position. I hear the Foreign Minister always speaking about realism; I heard yesterday our colleague from the Marxist Party talking about realism. Realism is something that is not so fixed; realism changes. I shall give a small instance. There have been talks in this country, not necessarily by this or any Government, that we should forget the past and settle on the ceasefire line that was the ceasefire line of 1948. If we had done that, today we would not be settling on the line of control; we would have

to withdraw from the places we have taken in the northern parts, in the same way as we are withdrawing from and handing over 5,000 square miles we seized. We would not be able to keep the part of Kashmir we recovered if we had settled on old cease-fire line. That is to say, at no time will we surrender political and legal sovereignty of areas of ours. This would be an act of recession. And act of recession is an act of surrender and we are not a defeated country. On the other hand, if the peace of the world requires it, a country can and may surrender part of whole of its sovereignty.

I say that our position all along has been that we are in Kashmir by right, by the fact of accession like other Indian States, Jammu and Kashmir came into India by accession; it has been reinforced by the fact of possession over 25 years. There is nothing in the Government of India Act of 1935 and nowhere does it speak of partial accession or temporary accession or an accession that can be revised from time to time. Once acceded, that is the end of it. When Lord Mountbatten as the Governor-General of India wrote at the bottom of that paper: we accept, that was the end of it. Nobody could give it back except by an act of recession. This must be clear to anybody.

What is Pakistan's right in the areas where she is? They are partly cheating of the United Nations and partly by the result of acts of aggression; she has taken over territory illegally. Equally illegally she has surrendered to China certain portions of the State temporarily. Their's is the right of aggression; our is the right of legal occupation.

It is entirely correct for us and it is absolutely the right thing for us to do to return to Pakistan what is her sovereign territory by the same token, it is her obligation to return to India, that is, our sovereign territories she has illegally occupied. In the context of political exigencies we may say that this may take time and we shall seek to make

**peaceful change over arrangements. That is what we have said when we demanded that Pak.stan must vacate her aggression.**

**The second part of it is to remember that changes take place and we may not lose our rights. Probably this time three years ago if anybody had said that Bangla Desh was going to be an Independent State, he would have been regarded as a lunatic or said to be trying to disrupt Pakistan or something of that kind.**

**Liberation Movements take place in Pakistan too and other parts of the world, and, therefore it is for us to state the postion that Pakistan was trespasser and we are in what is our own territory.**

**So far as Kashmir is concerned, it is entirely where it was, that is to say it has probably been discussed between Pakistan and ourselves as to how there is confrontation on the one hand and infiltration on the other.**

**Finally, a Government can make surrenders and sacrifices if there is something to be said for it. Supposing the cease-fire line was drawn twenty miles this way or that way, all the problems that we have now in regard to military preparedness infiltration, resistance etc. will continue as they were. The only thing is that instead of being on one line, it will be on another. So long as the cease-fire line is inside Indian territory, it can be no international frontier. None of these problems which we have been facing for the last 25 years will go. It is quite possible that there may be big changes in Pakistan or in the world, but we are not in front of them at the present time.**

## Indo-Soviet Treaty\*

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Mr. Deputy-Speaker, Sir, the House has before it the text of the Treaty concluded between the Government of India and the Government of the Union of Soviet Socialist Republics. There is also a statement from our distinguished Foreign Minister the purpose of which is to inform Parliament and, I presume, to inform public opinion also.

I want to tell the Foreign Minister seriously one thing. He must have been perturbed as I was when we read the headlines in newspapers this morning. This treaty is a Treaty of Peace, Friendship and Cooperation. Practically, everyone of our national newspapers—they would not like inspiration from this Ministry of External Affairs—comes out with 5-column headlines on the security pact between India and Soviet Union. No one would regret it more than the Soviet Union and the Government of India. But the fact is that even at this stage the public education on this matter has become inadequate in the sense that our national newspapers should come out and say that there is a security pact between ourselves and the Soviet Union. We would then justify the SEATO, the NATO and all that and abandon the very basis of the existence of our foreign policy.

The Foreign Minister has, rightly, said and also others have said that this is a land-mark in the growth of India's foreign policy or history of India, whatever you may call it. But a land-mark means the course that is being followed. A land-mark is

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\* *L.S. Debate*, 10 August, 1971



not something that descends like a man from heaven. A landmark means a point that is reached in the course of a journey undertaken over a period of 20—30 years, even the pre-Independence period.

The people of India through their national movement who then represented the people of India as a whole welcomed Soviet Resolution and welcomed the break-down of the Czar empire and the action, at that time, of renouncing imperialism and the proclamation of equality of races and equality of nations. From that time onwards, the national movement as a whole has not owed its allegiance to the Soviet Union, as is sometimes suggested, but respected and understood what has been happening.

In the Congress session at Lucknow, the then President of the Congress, Pandit Jawaharlal Nehru, devoted a considerable amount of the time to the role of the Soviet Union and the impact it had by its very existence on the history of the world. Why I say all this is not to brush up my knowledge of history. But to say and look upon it as though something new happened yesterday as a departure from our policy and raise the question whether non-alignment is or is not, only shows perhaps an inadequate understanding of the situation.

My submission is that every attempt should be made to understand this. I have no doubt that if the Foreign Minister reads the text of the Treaty itself, it will be possible for his official machinery and others to educate the public properly on this question.

This Treaty is a Treaty of Peace, Friendship and Cooperation. Friendship is a bilateral affair. In that sense, this Treaty has a bilateral aspect. Peace is a world affairs and it refers to international relations, I, therefore, regret to see in the first two paragraphs of his speech of yesterday the reference to

regions, to our region, and this has an effect of creating a situation that we are trying to find some antidote to the SEATO complex : that is to say, following so closely upon the mysterious visit of Mr. Kissinger, we take an extraordinary, unusual, step of sending our new Ambassador to that country to negotiate our relations. Now that may be necessary. But to create an atmosphere of drama about this is not to subserve the purposes of this treaty. Although I can say that that does not in the slightest degree detract from my regard for the achievement that it represents also I want to say that it did not come about just yesterday. This was being negotiated for the last two years and no one knows it more than the Foreign Minister; and what is more is that this relation between the Soviet Union and India has been made possible by our attitude during the pre-Independence period also during the Post-Independence period and by the role the Government of India has played in its contribution towards peace in the world whether it be in Korea or in Indo-China or in Cyprus in the middle East or anywhere else, where it has demonstrated to the world, Soviet Union included, that she has a considerably effective part to play in the world. And I bear witness to the fact that during all this greater part of this period we had the highest degree of co-operation from the Soviet Union, not in the sense of our saying Yes to what they say or their saying 'Yes' to what we say. There was always an approach which was one of equality. We had never been a client State of the Soviet Union in international relations. We have never been told how to vote or what to vote for and in the debate on the Korean affairs and in the debate on the Korean resolution, at that time the then Soviet representative more or less said, 'We better mind our peace and views' and we did. We voted just as we liked. That is to say that there has been no attempt to interfere and certainly an attempt to influence just as we make to influence them. There is no diplomacy unless we are prepared to be influenced by somebody else also because if we prevent ideas coming into our mind and by shutting the doors of our mind, it is possible for us to escape from ourselves and to convey our feelings to other people. It is essential, therefore, that as per

the law of diplomatic relations we should accept the fact that the other fellow might have something to say.

I need hardly say that I welcome this development and it has come at a time when, while it may be clogged with the Kissinger visit and the unfortunate testimony of the importance of Nixon's visit that was expressed in this Parliament and modified soon afterwards, that should not cloud the main issue. Nor should it be clouded with the issue which my friend, Mr. R.K. Sinha, referred to as 2 million or 5 million. I do not know how you count the people. According to him, it is. Mr. Vajpayee says it is about 10,000 people there. Mr. R.K. Sinha will say that there were three million people. I would say, "I don't know because I was not there. And so on." May I say with great respect without being in the slightest way cynical, that there have been occasions in history when there had been tremendous demonstrations which were followed by events which altogether were not to the credit of the people who promoted them. Chiang Kai-shek—Tremendous demonstration just before his departure to Formosa; Sixty million people. Same was the experience of the Czar of Russia at the Duma from 1905 to the disasters of 1914-1915. The Duma recorded record votes in support of the Czar's Government and it was said that the people at that time were behind them. They were certainly behind them. They remained there behind them long afterwards. Therefore it is very unfortunate that Members of the Foreign Minister's Party have a greater degree of responsibility than some of us who are back-benchers, because they represent power, and making statements of this kind that because there is a tremendous support, therefore this treaty is effective in that way, would take away from its importance. It is far too important a matter to be talked about in this way or to tread on the horns of party politics in this way.

Sir, foreign policy cannot stand in a Parliamentary system if there is not a general agreement,—general agreement as represented by our professional dissenter, Mr. Vajpayee, today. There must be this degree of agreement in regard to foreign

policy,—not in regard to the various items of the various approaches.

Now, there has been no evidence in the past that on account of the so-called policy on non-alignment we have no understanding or friendship in the world. On the contrary, we have been able to contribute a great deal to the development of peace movement as such.

And that takes me on to the paragraph here which deals with these matters. It is not merely just an affirmation of friendship and cooperation when it says : 'Both countries commit themselves to the development of disarmament, arms control' and so on. And, I think, to the extent India has signed this treaty, it is perhaps an indication that it has got out of the trough of what may be more or less called 'isolation'. That is to say, during the last 6 or 7 years, we have made very little contribution, effective contribution, towards the progress of disarmament discussions. It is also perhaps an indication that in respect of scientific development, particularly in the field of electronics communications, we are not likely to be bound down by any particular part of the world. I do not want to develop any further on this. It is very important that in that particular context of space developments communications in that way, the paragraph here dealing with cooperation and technological development receives some substance. We are also told that the assistance given to a third party who is inimical to us would be a hostile act. Well, how this works out, one cannot say; there are too many countries who are inimical at any one time. But, it is a commitment on the part of each of us to resist any country that threatens war against us, the recognition for the first time, in a document where an agreement is not about war, but about threat of war.

The United Nations has been trying for the last 15 years to define aggression; they have not been able to do so; but, at the same time, everybody knows what aggression is, when one gets it. But here, we have made an advance in saying, not only aggression, but a threat of aggression. Doubts have been

raised by Shri K. Manoharan and Shri Atal Bihari Vajpayee—it is not my business to answer them, Government will answer them—whether the respect for the territorial integrity of India does not require some clarification. Time and again, the Soviet Union has said not only in Moscow but in international forums that she respects the frontiers of India. So far as they are concerned, there is no question to whom Kashmir belongs. That is to say, they have taken the view that it is a settled question and they do not want to enter into it. Unfortunately, whatever may be the reasons, half of our territory is occupied, and we have not been able to get its evacuation. That is another matter. Therefore, this must be put on one side in that way.

Then, I would like the Minister of External Affairs to look at the various articles that we have here and see that these articles do not suffer the same fate as some of the provisions of the economic and cultural treaties and that greater dynamism is imparted into discussions and participations in the development of disarmament policies, in the cooperation in regard to space research in a way that it does not get diverted into other channels. I am not amused by the fact that I have been told that the UN project is coming and so on. It is one part of the world where considerable development has taken place, and we should participate in that.

It also takes us to the question of some courageous revision in regard to the non-proliferation treaty. It is not sufficient for us to be logical about this non-proliferation treaty. I do not carry the House with me in this when I say that the non-proliferation treaty even if it is signed is an advance towards disarmament. That is to say, if the nuclear weapons were spread around and everybody had them including every gangster in the world, then the world would be in a very difficult situation. So, that by itself would be a very great advance. But it is not being shaped in the way we would like it to be developed. The fault is largely ours. Since 1962 we are on the collapse on the 18 nation commission or conference and we have left the discussions to the United States and the Soviet Union and they made things their own. It is our business now in view of this newer

development to see whether we could get some arrangement made whereby we can contribute towards nuclear non-proliferation. For, proliferation particularly in the sense in which it is talked about and in the context of the general pressures in our own country to go into underground tests and what not is a very important matter.

There is not very much more that I have to say except to point out that it is frightfully important from our point of view that we do not present this treaty as though it is merely a reaction to the Pakistan-China-USA collusion or allow the inference to be drawn that it is an exclusive alliance. The Prime Minister has stated and the External Affairs Minister has stated that this does not preclude friendship with anybody else. It is friendship of the Soviet Union but not an exclusive friendship of the Soviet Union. We have always regarded, and I for my part have always been one of those who have regarded, very close relation with the Soviet Union as one of the vital factors for the maintenance of our Independence, not merely in military terms but also for our economic development. This has been so for a very considerable time. This does not in any way deflect from the freedom that we have or the rights that we have to establish relations with the United States, China or with Britain or any other country. In fact, as the Prime Minister has said, this perhaps would assist us in a way to develop relations of this kind hereafter with other countries.

It has also been said that the timing of this perhaps is not right. With great respect, I beg to disagree. It could not have been delayed any longer, because there are troubles on our frontiers and if anyone has any doubts that perhaps this is a measure where very astute Soviet diplomacy is trying to exercise restraint upon them in their own interest, I think really that it is an unwarranted belief.

This agreement cannot in any way inhibit our sovereignty. The right to recognise Bangla Desh or not to recognise it, the right to recognise the GDR and so on, these are sovereign rights. It would be as wrong for the Soviet Union to tell us, 'You cannot recognise these people, if you do, then you will break

this treaty', as for the Germans to say 'We have got the Hallstein doctrine'. The right of recognition is a sovereign right, and we exercise our sovereignty in our interest, and if we make a mistake, we take the consequences. That is how it is.

I think the purpose is not to depend upon friends but to enable us to develop our self-reliance by the knowledge that there are no hostile factors in places where they do not exist. Therefore, any suggestion that this is a factor that would inhibit our ability to recognise Bangla Desh or GDR or North Vietnam, is unfounded and not legitimate, because recognition is a sovereign right and a sovereign function which must be exercised by us. Equally the idea that we could not ask the Soviet Union not to do this or that also would be wrong because they are a sovereign country too.

I remember the days when the Commonwealth countries used to bully the British Government a great deal and then their Foreign Secretary retorted: 'We are also a self-governing Dominion'. So the other partners to the alliance have also rights and I think it would be very wrong, a sign of political immaturity, to think that because they have signed a treaty with us, their action should be judged in Delhi and not in Moscow. This is a treaty, an agreement, between two equal partners based on mutual self-respect and self-interest.

So far as non-alignment is concerned, there was a time when the western world first scoffed at it, opposed it and, what is more, spoke about it as a proclamation of weakness, a proclamation of lack of allegiance to the Charter of the UN and so on. From there one moved on to the situation when the US took a rather cynical attitude towards it, until we come to the more modern period when they say they accept it. But the Soviet Union has at all time recognised it and taken no umbrage against it, that we are a non-aligned nation in the sense that we have got a position of our own

and what is more, a positive contribution to make to world development, taking up the cause of each colonial country to assert its independence, and contributing to opposition to imperialism.

Finally, I hope that this treaty we have signed will be a factor which will stimulate and invigorate the forces of anti-imperialism not only in the governments but in all countries because so long as imperialism lives, there is no scope for national liberty either in India or in any other part of the world. Imperialism is the breeding ground of war and it is our business to be not merely against it in phraseology and resolution or by way of membership of the anticolonies committee but go the whole hog in total identification with those who resist imperialism. This is the only way we shall prevent the designs of imperialist countries when they jump from one arena, from the South Pacific gallery, and move on to another, Bangla Desh, to set up thousands of bases in foreign countries against liberty, threatening the liberty of mankind; that is the only way to liquidate these designs.

For all these reasons, the present step that has been taken is a substantial contribution, with the modification I have mentioned, that it is not a sudden adventitious growth in that way. The development of our policy has been a normal, natural and healthy one. It has been speeded up, and I hope that the dynamism that it represents will now transfer itself both in terms of this treaty and the actions that come hereafter.



## 5 Nuclear Disarmament\*

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*Mr. Deputy Chairman,* the United Nations Assembly which opens its Session on the 17th of this month, in its 12th Session will have before it, for its main consideration, whatever may be the order of business, the problem of disarmament because this problem of disarmament, as it is called, is not in essence merely a question of the quantum and limitation of the quantum of arms or their quality but in a sense, the reversal of the process of armament. That is its real meaning. After all it does not make much difference if a man is killed with a 9" gun or with a 19" gun. He is just dead. If we are able to make even the slightest degree of progress in disarmament, then we have changed the course of policy which rests upon the conception of negotiating from strength, of mutual extermination of your opponents and of intolerance and of all those things which make the world a very dangerous place to live in. So far as this Government is concerned, we would approach this problem, so far as I can understand it, not from the point of view of the apportionment of blame on one side or the other in regard to the power blocs because it is obvious and by definition it is true, that you cannot get disarmament without agreement and if there is no agreement, it must be the fault of both sides, if there are any faults. But the fault really lies in the context of the general situation and we today have arrived at a position where the Sub-Committee debating in London for several months, has concluded its final sittings for the time being and has adjourned for a period of six months. There is nothing very tragic about this. Because during all these discussions there have been periods when there seemed to appear rather a plateau, a

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\* *R.S. Debate, 9 September, 1957*

plateau of agreement. Then on that plateau rose the mist of suspicion and they are separated again. In any case, according to the U.N. time-tables, they have to go back to New York in order to report to the parent Commission which alone can present a report to the Assembly. So far as we are concerned, it appears to me that we have now reached a stage when this problem has to be looked at by taking a step backwards and viewing it with a degree of objectivity. So far the Disarmament Committee which has been debating in London was originally set up on the initiative of the Indian Delegation in order that there may be a small group which would discuss in private these matters. It gradually grew or deteriorated into a general public discussion and its usefulness probably has come not to an end, but has come to post-maturity. But a great deal of the discussion has assisted in clearing the points of differences and in bringing the Soviet Union and the Western countries together on various matters. It is a mistake to think that either the Western Governments or the Soviet Government want war. There are no people in the world today and no Governments in the world today that want war. War is not only a costly business, it is not only a risky business, no one knows what its consequences will be but everyone is sure that a war on the modern scale would not leave behind either victor or vanquished. They will all be vanquished and therefore it will be a great mistake to think that there are warring nations on the one hand and peaceful nations on the other. All nations desire peace but nations have not yet found the leadership or have not yet found a degree of confidence in each other when they can throw arms away. That is the position. In a sense, it is a crisis of confidence. Therefore the U.N. will face the situation with a report of no-success from those concerned and they will be thrown back to the Members as such. The Government of India have instructed its Ambassador in New York to inform the Secretary-General that the Government of India desires that the item of disarmament should have priority over everything else. It is true that the political committee of the U.N. Which is master of its own procedure will decide the order of business but it is equally important however that a country like ours which has

not too many arms to disarm but is passionately interested in peace and has made its own humble contributions in that direction, should call attention of the world, indeed as other nations will do, that the subject of primary importance before the World Assembly is this topic of the reversal of the engines of war. That is what disarmament in effect is because even the proposals on which there have been agreement gives 2-1/2 millions troops to America, the U.S. I Mean, 2-1/2 Millions to the Soviet Union, 2½ Millions to China, 750,000 to U.K. and 750,000 to France In some cases some of these countries I have mentioned, I shall not mention them by name, have not got this quantum of troops now. In fact it is levelling up of armament so far as they are concerned but the agreement is one where people who have hitherto believed in the process of negotiating from strength, as it is called,—of course, if you are strong in that way, you don't negotiate, you dictate—the essential meaning of it is that the nations of the world, if there was an agreement, have come to the stage when the process of rearmament would have been halted. The Government of India in June of last year brought to the Disarmament Commission a suggestion which was really initiated and has become incubated in the General Assembly, that a beginning must be made somewhere, however small and the way to begin it was probably to take those subjects or points of agreement on which a great deal of machinery was required. Because once the machinery came in, there is always a disagreement on the definition of the machinery. The question of whether control should come first or disarmament should come first, will always be argued. This view has found a considerable degree of acceptance as a principle and during the last 12 months, the entire disarmament talks have centred round this problem of what is called, 'limited disarmament', not limited disarmament as an objective but limited disarmament pending the abandonment of nuclear weapons. The word disarmament has succeeded. We are not without hope where in spite of all that has been said, in spite of the propositions adumbrated by France and Britain on behalf of the Western Powers and by Mr. Zorin on behalf of the Soviet Union in which both said 'we have come to the parting of the ways', both sides would realise that there can be no parting of

the ways in this business. Because the world is threatened not only by atomic or nuclear or thermonuclear weapons but with large quantities of molecular weapons which are far more powerful than anything we have known in the world before and what is more, the possibility of the control of the planet from outside by satellites—not the satellites in the sense that is ordinarily used—but satellites in the atmosphere which may have vast consequences not only in observation but in the climatic and other conditions, of the world—We have only come to the beginning of this era when the control of this planet from outside would probably be the determining factor in peace. Therefore, we enter into this field of disarmament not with any gospel of our own, not with any prescriptions to find a solution, but to convey to the nations assembled that countries like ourselves, who are in a backward state of economy, who are—we cannot say peace-minded, for so are all the countries—but where generally ideas of peace have reigned for a very long time, where their continuance largely rests in the world being free of large-scale conflicts, and wherein the populations are likely to be subjected to the evils of radiation far more than even the nations of the west, such countries projecting themselves into this sphere may probably assist in the finding of the beginning of a solution. But it is essential that in these discussions on disarmament we should be able, at any rate as a government, to go in and speak without any reservations, that we have a people behind us who are committed to the policy of peace, who do not desire to assert their right by the use of force. It may sound what some friends might call a vegetarian proposal; but there are many vegetarians who have asserted themselves. So if the Government can, in spite of all the difficulties that prevail and while holding fast to the protection of our sovereign territory and permitting—no incursion on it, if we are able to say,—as indeed we told the Security Council last time—that we are prepared to take the view in the circumstances of the world, to hold our hands even in the assertion of our own legitimate, legal and political rights, whether it be for Goa or Kashmir, it is likely that we shall carry some weight in this question.

It is interesting, Mr. Deputy Chairman, that at this assembly, Czechoslovakia which has a communist government and which lies between the western frontiers of Eastern Europe and the eastern frontiers of Western Europe and which is generally regarded as having a policy which is largely conditioned by the views of the Soviet Union—Czechoslovakia on the one hand and Belgium which is, more or less, a typical western European country whose former foreign minister is now a great pandit of the NATO, Belgium about which a historian said it is not a country but a road in the sense that every marauding army walked across and this territory, had been subject to invasions—Czechoslovakia on the one hand and Belgium on the other, asked the United Nations to study this and to enquire into the conditions that afflict humanity in conditions of radiation. In other words, in spite of ideologies, the great impact of danger and the consequences to humanity, that undying feeling in man that he has to survive and fight against evil in some way, that knowledge of the vast numbers of humanity is probably the best corrective to the great dangers afflicting the world and that seems to have come from those two entirely diverse quarters. We have been speaking away the last year or two and as a result of it, the United Nations appointed of commission to study atomic radiation. But in the United Nations like most governments, once they appoint a committee then they have to wait for a long time for the report. The scientists have not submitted a complete report on this question. But the political issues raised by these two countries is of far-reaching importance.

Coming to disarmament itself, I think it is appropriate, Mr. Speaker, to draw the attention of the House to the part that this country has played in the whole of the disarmament problem from the year 1948 onwards. From 1948 and 1951, disarmament was largely concerned with the control of atomic energy and the position in relation to what is called the

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\* L.S. Debate, 23 November, 1960.

Baruch Plan. From 1952 onwards, the controversy on disarmament assumed its present state.

Disarmament is no longer merely one of the items or even one of the more important items. It is probably of total concern with regard to the world itself, the reason being that the quantity of armament, and its character has changed so much that changes the quality of war and the quality of its consequences. This is the main reason.

For the first time in the history of the United Nations, though countries like ours, perhaps for ethical reasons, perhaps for moral reasons, have pressed the position that the mere balanced reduction of arms, which has been the popularly accepted connotation of disarmament is no longer sufficient and on behalf of the Government of India, it was put forward at the Tenth Anniversary meeting at San Francisco, that disarmament was only a step towards a warless world, and what was required was the outlawry of war, where nations would be able to live in a society where war would no longer be an instrument of settling disputes, it was not accepted by the United Nations till last year.

Last year—and I do not say this, because, as some gentleman said, of my bias towards one side or the other—after Mr. Khrushchev's speech, followed by that of President Eisenhower and others, the United Nations, after a great deal of controversy, accepted a warless world as the goal of disarmament. But this word 'goal' has created difficulties, because, sometimes, a goal is something that is sought not to be achieved, but evaded and fear might—perhaps be sought to be achieved by some. But there it is. Anyway, in 1959, "Disarmament" moved away from the connotation of 'balanced reduction of armaments' whereby each country will have sufficient arms, either for its own security or for collective defence as such, which could be stepped up, and which would be stepped up in case of international conflict. Now, we have moved away from that conception to what is spoken of as a warless world, and following from that, the abandonment of arms, not in the sense of cutting the size down, but the total

abandonment of all equipment, of all forces and defence administrations of military training and things of that character, which was dismissed as being Utopian in the old days.

Nothing will advance this movement for the achievement of this more than the mobilisation of public opinion in the world, because, in spite of all that we say, there is a general fear, particularly in the circles economically and militarily affected by these things, of what is called the 'outbreak of peace', that is to say, that people may be out of work, business may go down and so on and so forth. People have accepted but fear the idea of a warless world in this way. I said a while ago that this is partly because of the changes in armament itself that have taken place, and I propose to refer to those changes in a short time.

In the history of the last ten years, irrespective of whatever may have been said, and done or not done there has been progress made as between the two sides, and the role of India in this matter—the position of the Government of India some years ago—has not been negligible or fruitless. I say this because, yesterday it was mentioned that our position was either interfering where we should not be weighing in on one side as against the other. Speaking on this subject may I point out that we have said, that, the essence of success in disarmament work is agreement. Therefore, the power of the Assembly to rally behind one view, whether it be the view of the majority or of the minority makes no difference; at the next stage, the negotiations become more difficult. India is always opposed to putting her weight in the Assembly behind disarmaments. And, therefore, whenever there is an attempt merely to carry something by a majority vote in what we call the cold war issue, we have abstained; it is not because we have no views, but because we know very well that majority votes do not mean anything. I think the most outstanding example is the voting on the issue of South Africa, where every year, we mobilise enough votes and nowadays, all but the vote of South Africa, but the one vote we want for any settlement is the vote of South Africa, and some day, we will get it.

That has been the position that we have taken up. There are and have been arguments between the two sides, to one of which the Prime Minister referred yesterday as the controversy over whether control comes first or inspection comes first, that is, whether disarmament comes first or last. Anyway, during the last ten years, after the attempt of the United Nations to force the two Powers more or less by persuasion and negotiations, there have been agreements on a number of particulars. But whenever there is nearness to an agreement, one side or the other brings forward something which the other side cannot accept. That is why I say that there is a general fear of disarmament, and I could not express it any better than what has been stated by an American source. The Carnegie Foundation this year in an examination of present proposals published a report in which the following is said—I have not got the whole of it, but this is an extract:—

“Every plan offered by either side has contained a set of proposals calculated to have wide popular appeal. Every such step has included at least one feature that the other side could not possibly accept and thus forcing a rejection. Then the proposing side has been able to claim that the rejector is opposed to the idea of disarmament *in toto*. The objectionable feature may be thought of as the ‘joker’ in every series of proposals”.

They refer to this as what is called ‘gamesmanship’. It is not a new thing today. It was there in the old disarmament discussions in the League of Nations. It is our experience that one year, shall we say, there are proposals to which the Russians object in some particular feature; the next year they accept it, but then the Americans or the West object to it and *vice-versa*. In that way, it has gone on backwards and forwards. Then a position was reached in 1952 when there was a complete deadlock. Largely on our initiative the General Assembly gave directives as to what should be done. Today we have reached such a position again the further aspect wherein the nature of armament is such that unless we end war, war will end us, that is to say, the nature of atomic and hydrogen



weapons is of such a character that not only the destruction is vast but the emergence of war itself is not just a remote possibility. This, again, is another factor to which even statesmen sometimes do not give serious consideration. It is not as though the possibility of war is remote. We are, in the present circumstance of an atomically armed world, not only on the brink of war, but war can be very easily triggered even by accident or irrational fear. It can happen either by accident or by what is called the process of 'rational irrationality' where they miscalculate the deterrent powers of these weapons and their tactics. It can happen also as what is called catalytic war where small countries think that they can draw the big ones into war to their advantage. Again if, accidentally one of the 'under-water bases' were used by one country, if from it a weapon was operated and by mistake or accident it fell on its own country, on the country of its origin, it would most certainly lead to war, because it makes the other side think that atomic attack has been launched. The possessing country would say 'Now, our weapons are known; we must start all-out attack or we will be annihilated by the other side/by immediate retaliations'. The consequences today are that in the first few hours, the casualties in the war on the attacked country may be 50—60 million. It is said that 263 atomic bombs making a total of about 1470 megatons would destroy 90 per cent of the population of the United States in a few hours; and the same applies to the other side. But those vast figures of death and the appeal to fear will not help to conquer the armament race problem; because armament itself is the result of fear and we could not meet fear by fear.

Therefore, we have to argue the position which is gradually being understood that the purpose of armaments is four-fold; firstly, security of the country; secondly, expansion for the acquisition of colonies; thirdly, the question of markets through economic penetration, and fourthly, to assert themselves in an ideological conflict. I will not, in the time that I have, go into the details of these. But I believe we may rule out the last three for the purpose of this debate, because on the colonial side, as I

have said, the colonies are getting more or less—shall I say?—disbanded,—the economic issues are of a different character today and economic co-operation between nations is being forced, and the ideological controversy, in spite of Communism and anti-Communism, in its intensity, is not as intense or acute as it was at the time of the Crusades, because, after all, co-existence is, more or less, accepted.

Then there remains the question of security. But in the last two years certainly even this question of security, of what is called the 'fortress Nation' has disappeared, because the quantity of arms, the striking power, is so much that they no longer frighten anybody else; as the weapons can not be used without world war and if used, it would mean total annihilation, so much so that their possession becomes more a danger than otherwise. In arguing the deterrent power of these weapons, that is to argue that atomic weapons of this type, will prevent the opponent from waging war, is to justify their existence it means that you have confidence in your opponent that he will not use his weapons to destroy the world. And the whole disarmament difficulty is argued to arise from the fact that there can be no confidence in the opponent. The two things are contradictory. Therefore, the whole thing has become absurd, since the old idea of one having weapons superior to the other is no longer competent.

The second question is the competition in what is called the armaments race. The arms race is bad enough, when one nation competes against another in having more and more deadly arms; but today that is not the only position. A nation is competing against itself all the time, in the sense that even before a particular weapon is completed, it has become obsolete and the next one has to be made. So it is competing with its own economy, its own technical powers and so on, and has come to a stage now when technologists say that there is nothing that cannot be made, with the result that whatever is made is out of date.

Thirdly, there is the position emerging from space research in which some people think that neither the United States nor the

Soviet Union really want any control. We therefore have come to the position that on account of technological advances in space, unless war is outlawed, there is no method of control.

Fourthly, again while there is always argument about insistence upon inspection and control—and our Government has from the very beginning said that there could be no proper disarmament without a proper machinery of inspection and control—it is recognised at least in private conversation that no method of inspection and control is really going to be fool-proof, that is to say, there could be no method of inspection and control which would operate in all cases before the weapon has reached its target. That is, the Russians would deliver the missiles into the United States; the missiles could be there long before the machinery of control can operate. Therefore, the machinery of control has to operate beforehand, and if it is to operate beforehand, then we must have agreement. That is now the basis of all our disarmament discussions.

Therefore, we have proceeded from the conception of a balanced reduction of arms to levels as envisaged in the Charter necessary for the purpose of keeping international security, because it is feared that if nations have war armament, they will grow from small to big ones. Equally, if we were to prohibit atomic weapons—destroy them, dismantle them—and do the same to even the larger high—explosive weapons, it is realised that they will come back in the event of war occurring. Let me put it this way—that if the great countries were reduced in their arms to the level of 1870 or even 200 years before and if still there was an international conflict all these weapons would come back, because the men who made them or the successors of the men who made them are there the technology is there, the industry is there and the fear and the passion that make for war are also there. Therefore, any kind of disarmament in the sense of taking away weapons is no longer of any value. There is no instance in history where Generals who occupied positions in war when it began concluded the war or the weapons with which the war began were the weapons which were used at the end. Today we have

now reached the position as a result of space research and nuclear and thermo-nuclear weapons whereby the disarmament problem has become one which is meaningless in the whole context and a revolutionary outlook has become necessary.

The next factor that has emerged in the last two or three years was when first Great Britain made a little bomb and exploded it off Christmas Islands. Afterwards, when the French insisted on exploding their in the Sahara, it used to be called the fourth-Power problem. Now it is not the fourth or even the fifth-Power problem; it is the N—th Power problem. An American investigation into the subject was made last year by a group of scientists under the chairmanship of a great scientist, Davidon. He submitted a report which pointed out that at that time there were 10 countries including India which had sufficiently advanced in nuclear research and the possession of nuclear fuel to be able to make bombs. This number has now advanced about to 20. To get away from what is merely academic, let me say that it is possible for countries like Germany, China, Japan, Italy and Israel—all these countries—to produce these weapons, with the result that the control of atomic weapons would become impossible.

Therefore, unless at the present stage with the larger countries—the Soviet Union, the United States and the United Kingdom—who may be regarded as more responsible in this matter and will, therefore, contribute to disarmament, unless at this stage we bring about elimination of these weapons, there is no hope of eliminating them. That, I understand, is the significance of the Prime Minister's observation yesterday that unless we disarm in the next three or four or five years, there can be no disarmament at all.

Added to that is the change in the character of these weapons. There are methods and methods. The older method is revived in Germany whereby these weapons will be produced much cheaper and in much smaller size. The bomb that was dropped on Nagasaki and Hiroshima is what is spoken of as the 20 kiloton bomb. They now use these 20 kiloton bombs in order to trigger bigger bombs. That is only like a match stick

that ignites. That is one of the main difficulties that these big megaton bombs which have such explosive power in one of them as all the explosives used in the world in history; and that and that alone is such a menace. But today they have learnt to make very much smaller weapons. It is known that the 50 ton bomb has been made; and the same scientists say that next year it can be reduced to 10 tons and in the following year to 5 tons. So, the position put forward by our delegation 2 or 3 years ago, which was laughed off at that time as scientific fiction, that atomic weapons may very well become conventional weapons and become portable and be loaded even in smaller arms, that has become true. Now, all this means that unless war is ended, war must end us. That is to say, there is no way of controlling these things today except by abandonment. And this has been gradually and increasingly realised. That is what has taken us to the position in the United Nations this year.

In the United Nations this year before the General Assembly, first of all, there was the deadlock with which we started. Last year's resolution spoke about the abandonment of war and asked the ten powers to negotiate. The ten-power negotiation was outside the United Nations because there was no possibility of getting an agreement for a negotiating committee which appealed to both parties. So, largely on our initiative it was settled that the two countries talk to each other. They then called for this ten-power committee which, although it was unconstitutional or not literally under the United Nations, was a part of the understanding. Anyway, that came to grief in the sense there was no advance made in these negotiations and they got into a deadlock; and the final phase of this unfortunate situation was when the summit meeting broke down in Geneva.

And the Assembly met under these circumstances where the device of direct negotiations through a ten-power committee had met with grief. There was no proposal; there was no advance of any kind and what is more, the resolution to which I made a reference a little while ago, trying to remedy the situation, namely the bringing together of these two people, that had become necessary because they won't talk to each other.

There was complete deadlock and some disengagement had to be thought of. Various other methods were tried even before we came to the decision of trying to get negotiating groups and what not; and that still is in the process of development.

But, in the meanwhile, it was suggested by us in general debate, afterwards taken up elsewhere, that we should now come to the position the same as in 1952, when on the balance of reduction of arms there was a total deadlock and no movement would take place. We had then simply come away and said this negotiating committee must do these things, A.B. C. D and E; and a directive was given. That was why, unsuccessful as it may appear at the shortest context, for the last 5 or 6 years, they have gone on. It was wrong for us to think that; while no results have been reached, no single gun has been thrown away, but still great progress has been made in the whole process of disarmament.

We have reached the same situation now when there was a complete deadlock. And so it was mooted that we should give directives to the Assembly, to the negotiating people who were there. We are still far away from the position where we can find an acceptable negotiating group. The Soviet Union wants a negotiating group in which there are 5 other people, 5 of the West and 5 of the non-committed nations. Now, even if this were possible it is unlikely that neither the non-committed countries nor the Western countries would accept this division of the world being in 3 camps, the two power blocs and the non-committed ones. That ideology they may not accept. But, in practice, some such arrangement would probably emerge and from that, incidentally, an indirect inference may be drawn by those who criticise our policy.

At long last the policy of non-alignment of certain people, people not being committed to those countries taking an objective view though always we do not vote as logically as we should—but trying to express our objective view has resulted in the position of both the West and the East today looking to the non-committed nations. Perhaps, sometimes directly sometimes in

a sly way and sometimes in an indirect way to bring about the reconciliation that is required. And, so, before the Assembly are various resolutions. There are the usual East and West resolutions coming from the United States, the United Kingdom, Italy and those western powers, from the Soviet Union, Poland and the others and there are one or two others from other people. And, at the present moment while all these have the same status, when I left New York the position was that the proposals made by a number of countries, including ourselves, which have taken a considerable part, which have been the result of a long period of negotiations of 5 or 6 weeks, still holds the field in the sense that while one may not say so in any formal sense the general feeling is that if agreement can be reached on this basis it will be possible to get unanimity. The basis of the resolution is to recall what has been said in the past, lay down these directives.

These directives include the elimination of arms, the elimination of bases, the elimination of training facilities and carrier weapons and so on. It also makes a provision for the maintenance of international and internal security in future by the existence of a police force in the municipal territory which would be placed at the disposal of the United Nations. And this also requires an amendment of the Charter and it is being realised on both sides because the Charter actually provides for military contingents, Air Force and Navy to be placed at the disposal of the United Nations. That also is taken account of.

But, as I said to the Committee, we are not in a position to say that there is unanimity of opinion on this. We hope that it would be so. At the same time it is interesting for this House to notice that both the representatives of the United States and of the Soviet Union informed the Committee that there are some parts of it with which they were in agreement, one more than the other, but there were certain parts, from their own point of view, which did not represent the balance. Each one says it does not represent the balance. That is a hopeful feature. They thought that after a few days—perhaps referring to our Delegation—someone may be able to assist towards an

agreement; and it was for that reason that the discussion of this question has been adjourned.

Normally, when an item comes, that is finished before anything is taken up. As was found more convenient for all these reasons, just to take no notice of that practice, the position is that there will be further consideration given to this problem. There is a realisation everywhere that the nature of armament and the size is such that unless there is agreement in this way arms will spread.

There is also the knowledge that a country like China with vast potentialities—where the economists estimate that in 1970 she will reach the position, economically and industrially of Russia in 1960—with the vast potentialities in that way, and with advanced Japanese technology; and what is more, of the production of conventional arms in the small countries, particularly the achievement of Germany in this field, there is fear all round that we are reaching a stage which would be beyond control. We also welcome that. It is recognised by each side though not in public that there should be space control that the use of outer space for this purpose should be prohibited.

The main trouble in this matter is that the Americans, the Western side thinks that while there is no objection to accepting all this—and it is interesting to note that none of these great countries shrink at least in public from the elimination of fighting forces, military colleges and the Defence Ministries and what not—when it comes to the practicality of it, the Westerners—though it is not accurate, broadly speaking—think let us do something big; let us agree on that and let Russia agree to that big thing; and then we go on to the next. The Russian view and the view of the uncommitted nations will be that the trouble is not going to end in 10 or 12 years; let there be a commitment; there must be a committed commitment by the great powers, the Assembly as a whole, to accept this, and that will lead to total disarmament in the world. Now, in the negotiations we have gone so far as to the position where if some method can be found, the two points of view can be reconciled and to the extent what may be called partial



measures can still be discussed and implemented; if the Soviets would accept them as not a bar to the other one, then perhaps progress can be made. But the fear in the Russian side is that if you put emphasis on partial measures, the West will go about talking partial measures and nothing else. Similarly, the Americans would say: if you agree to this objective, then the Russians would come and say: 'let us have one treaty and write everything down'. We cannot make progress. That is where—I would not say 'deadlock'—difficulty may arise; that is the risk. So, it is largely dependent upon the wisdom of these two sides and the capacity of the other people to find agreements. Then we may make some progress. And the progress is assisted by the fact that there have been some small agreements. Whether these small agreements will become complete or not is one of the factors. In these small agreements are the steps in regard to the suspension of nuclear explosions. You remember, Sir, the Prime Minister made a statement in this House some six or seven years ago, calling for the suspension of nuclear tests and explosions. For many years this was not accepted as part of the disarmament and even now it is not called disarmament; it is called arms control. The official scientists, in the West, as the 18th century Bishops, always have the opinion that suits the Government. They did not lay the same stress on the effects of these things as the others and have spoken about these explosions as if they were merely scientific. Fortunately, there are several publications brought to the attention of the U.N. where those who wanted to inaugurate these explosions themselves had stated that their purposes were not scientific but that they were intended to perfect the atomic weapons. So long as the explosions are permitted, then the engines of war and destruction are not reversed. Why do you want to perfect a weapon unless you are going to use it? That is the idea.

Anyway, these discussions have gone on in Geneva for nearly a year and about two-thirds of the treaty had been agreed. But the one-third which is not agreed to is rather a

difficult matter where there is no agreement on the measures of seismographic tests or on the committee of inspection.

On the committee of inspection, it would appear, that there may be some agreement provided there is a move towards total disarmament but at the same time our country would be rather sad to think that both the Russians and the Americans have agreed to maintain underground explosions. Underground explosions were insisted upon by the West and now it has been accepted. Following our general policy that when there is agreement between the Russians and the Americans, we do not try to improve upon it thinking you cannot sacrifice what is good for the best. These underground explosions have been put up before the Assembly as though they were small matters of digging a little hole. Now, it is known that these are very serious and large undertakings in the field of armament. Let us take an example. Each one of these holes would cost about 30 million dollars. The huge salt mines are used for this purpose. The whole process of maintaining them is going to cost about a billion dollars.

I say all this to show the dimensions of this problem. Anyway there is every hope that some progress may take place. If there is no progress, it is feared that there would be the renewal of explosions. If explosions are renewed, not only would they increase ionisation and radiation in the world—the birth of deformed children had gone up from 4 to 5 per cent. in the U.S. alone—but also they would lead to more and more countries adopting them because if tests were banned it partly stops the Nth power problem.

Apart from this, there is the problem of smaller weapons. De Gaulle of France has come forward with what is called the doctrine of atomic isolation. That is to say, he wants to develop his own weapon in his own way and does not want to come into any of these compacts at the present time. If that happens, then particularly the undeveloped countries and the ex-colonial countries fear that atomic weapons may be used in colonial wars because neither Russia nor the United States is going to involve themselves in a world war in order to punish some body

for some deprecation somewhere. So, it is feared that if these weapons get to smaller size and become more distributed in the development of what is called the Nth power problem, you would have a situation beyond control. That is why disarmament is today, rightly, the one problem that should concern all of us because our economic development, in fact the survival of the world, is at stake and it is necessary for us to realise that all this talk about world destruction and so on is not academic. A U.S. scientist has given the chance of atomic war in the close proximity of 4 to 1. That is to say, it is not as though it is a very distant possibility; it is a great danger. I think we should be happy to feel that in spite of our limited resources, limited knowledge and our limited influence in the world, we have over the years been able to make some contribution.

## Withdrawal of Kashmir Case from U.N.O.\*

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This resolution coming within the private Members' time might perhaps give an impression that it is somewhat out of relationship with the immensity of this problem. We may not however forget that this debate, however few we are here, has a vast audience, an audience just across our frontiers, an audience in the world, and particularly amongst the Great Powers.

Shri Tariq has moved this Resolution which has given us an opportunity of reminding ourselves of this problem. It will live with us unless and until Pakistan vacates its aggression on Kashmir territory, because what is involved here is really the sovereignty of this land. That is the fundamental issue.

The Resolution before us asks us to withdraw our complaint or rather our reference to the Security Council. Mr. Deputy-Speaker, Sir, I say with great respect that the criticism that is made of the Mover's approach to this, for availing ourselves of this remedy is bad, but, if I may say so, the reasons given for it are worse. The reasons why we cannot withdraw this from the Security Council are not merely technical ones. If they are technical ones, we would overcome them. The reasons go to the basis of our foreign policy, of our approach to international affairs and, what is more, to our security.

Now, there are certain fundamental things in connection with Kashmir. This debate has roamed far and wide

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\* *L.S. Debate*, 22 April, 1960

Therefore, it becomes necessary, since matters have been raised, to refer to some of them in brief.

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First of all this reference was made to the Security Council at a time when conditions as far as were known then were not the conditions that came to be known afterwards. We submitted the complaint to the Security Council under Chapter VI of the Charter of the United Nation—Pacific Settlement of Disputes—because at that time we were not aware of the fact that Pakistani Armies had intervened. At least we were not officially aware. At that time many Pakistani nationals were there and they were aided and abetted by Pakistan; but it had not become a warlike action by a constituted State.

Secondly, at that time our one desire was to limit the spreading of conflict. Reference has been made—and I think it is only right to refer to it—allegation has been made to the minister role of Lord Mountbatten in this affair. Apart from being a reflection on Lord Mountbatten, it is rather a reflection on this country. We were a self governing Dominion at that time and it was incumbent on the Governor-General as the Head of the State to act according to the advice of his Ministers. So, if we place the responsibility on Lord Mountbatten, we are really blaming our Government and our Prime Minister. But, in fact, what is alleged is not the case at all. Lord Mountbatten's role in this, as Head of the State, was to accept accession. But, in the subsequent letter that went out there was some reference to the ascertainment of the opinion of the people to which I shall refer later.

Therefore, the main position in regard to this was this: we went there at a time when we did not know as much as we did later. And, our lack of knowledge was not due so much to our lack of care as to the fact of deliberate concealment on the other side. And, so, when Pakistan made its reply—some 15 days later—to the United Nations they answered our application

with several points—I think it was 14 or something of that kind. But only one of them referred to Kashmir the others were references to Junagadh, Hyderabad and genocide and the two nation theory and all kinds of things which had nothing to do with this matter. The long reply did not refer to the Kashmir State except a two line paragraph or so in which they denied aggression. The others are irrelevant. Our complaint was, therefore, in fact, met by denial which, afterwards, was proved by U.N. Observers to be wrong. Therefore, there has been no legitimate or proved fact in support of the denial.

Reference has been made to the fact that aggression has not been found by the United Nations. This is to throw away the support we have got from the findings of the U.N. Commission itself when Sir Owen Dixon stated that on such and such a date when the Pakistani forces crossed the frontier they committed a breach of international law. That might be a roundabout way of saying it. But it was a finding that aggression had been committed.

Secondly, it is not our interest to get away from it. The solution now proposed, if it were accepted, would be something like saying, if you have got a bad headache, cut off your head. That would be no remedy. So, to displace the United Nations and to lend our support even if we are badly hurt would be to disown and disengage ourselves from all the obligations, moral and otherwise we have entered into. It would accentuate or rather would take us away from the forces that operate in this world towards world peace and co-operation and human development. What is more, it would belie every profession and every declaration that we have made before that body in this regard. It is quite true that aggression has not been vacated in Kashmir. It is also true that even the United Nations in its resolutions—it is sometimes forgotten—has found in favour of our sovereignty of that region, because every resolution speaks about the sovereignty of Jammu and Kashmir—Jammu and Kashmir is an integral part of India—and because there are no States in this country, whether it be the Maharashtra that has to appear or Gujarat that has to appear next week or Kerala in

which there is trouble often or Bengal or Punjab, there are no States with international boundaries, with frontiers. The frontiers of Jammu and Kashmir are on the Arabian Sea, the Bay of Bengal and the foot of the Himalayas. That has been sanctified by the declaration of the U.N. where it speaks of the sovereignty of the Jammu and Kashmir Government which is indeed the Government that is like any other Government, part of our constitutional arrangements. It is so by international law; it has been accepted by Pakistan, by ourselves and British Government at the time of Partition. It is international law.

Secondly, it is the will of the people themselves declared in their constituent assembly and afterwards by two different elections from which latter only those people who were held away by duress were prevented from participation. Even if they had voted against it would still leave a large electoral majority in favour of the declared will. Therefore, the plebiscite has been gone through. We come to this question raised by Shri Sadhan Gupta. He said that we made a mistake in making a commitment about the plebiscite. We are inclined to accept the versions of other people about us; we are even likely sometimes to accept such terms. Two or three years ago; it was common in our country to speak about Kashmir and India as if they were two separate countries. We have got out of it. Similarly, when we speak about the plebiscite and so on, we are accepting the version of people who do not agree with us. We made no commitment in regard to the plebiscite without any conditions. True, we have referred to it. The only resolutions of the U.N. by which we are bound are the resolutions of the 13th August, 1948, 5th January, 1949 and the 17th January or whatever it is. These are the only resolutions to which India has agreed. Every delegate, myself or any representative of the Government—every delegate has been instructed and has said it before the Security Council that we are not bound by any resolution which we have not accepted. We may in good faith try to carry out what the Security Council decides; we cannot prevent the Security Council passing resolutions anything more than we can

prevent the SEATO power declaring India to be under their proteeroyalty.

It takes me to a point of the plebiscite. There is the "Plebiscite Front" and what not. What has been their view at the U.N.? We accepted it as a working basis some years ago. Some years ago, there was a resolution which was divided into three parts; it is what may be called a concertina resolution. One part is tied up with the other. The second part becomes operative only when the first part is performed; so also, about the third part. Our contention has been and I am glad to say that it is now regarded as at least not controvertible—that the first part has not been performed. That first part was that the Pakistani elements in the territory of Jammu and Kashmir must withdraw. Their contention was that they were not there; and it was said that all the forces that there were at that time, except such people as were required for local police work in the so-called Azad Government, should withdraw. At that time when the Resolution was passed, the Northern areas were not under the Azad Government and in fact the Pakistani delegate himself admitted that he had no control over it. Therefore, the whole area which is now so significant to us, much more than is realised by our country-men,—Baltistan, Gilgit, the whole area of Chitral, the frontiers with China, Soviet Union and so on, that is, those areas—was never part of Azad Kashmir; those areas were and are within the sovereignty of the Jammu and Kashmir Government.

So, when this resolution was passed the Pakistan Government had agreed to withdraw all these forces. Not only did they not withdraw these forces, they accentuated and added to them. Therefore, the first part has not been performed and unless the first part is performed the second part is not triggered. That has been our argument.

Apart from the withdrawal of these troops, it was said in the first part that it was incumbent on the other side not to create conditions which would create turbulence between us. So, when they carried on all this campaign with all their heart and when



speeches were made that they would invade us the *jihad*, they created that kind of conditions and they have broken the first part.

So unless Pakistan behaves like a civilised nation and not carry on a war of nerves, a psychological war against us, continually pricking our frontiers and everywhere, as she has been doing, unless the first part is fulfilled—the first part was not fulfilled—and I make no reservation in this matter; the first part in regard to the resolution of 13th August remains unfulfilled and, what is more, it remains violated—the second part does not come into operation.

But even if the first part has been performed, the second part would require taking away, first of all, of the forces, the 32 battalions of the so-called Azad Army, Pakistan's regular army that have come in possibly after the conclusion of cease-fire, after the drafting of these agreements. It is only when they have been removed that other matters would come in.

Then, what is it that in second part we have committed ourselves to? We said we would withdraw ourselves at certain points, I am sure I am not endangering the security of the country when I tell you that even today on the soil of Jammu and Kashmir, the number of Indian Armed Forces is at a level lower than permitted by the cease-fire agreement. That is the pacific approach that this country has made to this problem.

Supposing it was the case, even the second part has been performed, what do we say in the third part? We never said anything about a plebiscite in the third part. We simply said that we would discuss with the Pakistan Government certain methods, this, that and the other, and out of those methods were put on a kind of architectural plan in the 5th January resolution. It was not an offer of plebiscite. In fact, there are various documents, which you can obtain from the Ministry of External Affairs, where the United Nations itself has said that plebiscite is only one method of ascertaining the opinion. So the plebiscite which has by repetition become almost a gospel, was not a commitment on our part. If it was a commitment it was a

conditional commitment, it required the satisfaction of three or four stages of conditions, which have not only been not fulfilled but have been violated by the action of a reverse kind.

So, when we went to the U.N., we agreed to this resolution in order to restrict the area of war, in order that the specific purpose of the United Nations may be promoted.

The second point we have to remember is this, that we have not taken a "Dispute" to the United Nations. There is no dispute, so far as we are concerned, about Kashmir. There is no more a dispute about Kashmir than there is a dispute about U.P. What is before the Security Council, under the terms of the Charter, is a "Situation" which is very different from a "Dispute". And, what is more, the Security Council has not got the powers under the Charter to adjudicate in a legal dispute. That could become the function of the World Court if we agree to its jurisdiction. But no legal issues can be resolved at the Security Council under the terms of the Charter. Therefore, if it is a dispute, it must be either a boundary dispute or a legal dispute. If it is a boundary dispute, it would have to be settled under the terms of a pacific settlement where there must be agreement on both sides. Therefore, we have referred no dispute. We have referred a situation — I have forgotten the relevant clause of the Charter — which was inimical to the peace of the world, which was deteriorating the relations between two countries and which might lead to this, that and the other.

The third fact to be remembered is this. Perhaps the House would not feel very much moved by it, but they are familiar with this phenomenon as well as other individuals at the United Nations. In all these years, we have been maligned up and down the world on many charges. We have been charged with genocide; we have been charged, for example, with ill-treatment of the minorities — who are the majorities in Kashmir — and what is more, we have been told that the Muslim populations of India — I hope the Muslim population, if they recognise themselves as a separate identity will take this into

account—we have been charged with holding the Muslim population of India as a hostage in regard to Kashmir—a large hostage indeed, of 60 million. So, that is the third factor, that we should bear in mind.

The fourth is that it is quite true the resentment of this House and of this country as a whole in regard to the Security Council is understandable, that the Council is composed of 11 nations, most of them nations whose constitutions are founded in the ideas of truth and liberty, who have not thrown their weight on the side of resisting aggression.

We have told the Security Council that 40,000 to 42,000 sq. miles of our territory remain under external occupation. There is yet another thing that is not fully realised; they have been annexed by Pakistan, I believe, under clause 1 sub-clause (2) of their Constitution legally from their point of view and from our point of view illegally. They have been annexed by Pakistan. We have not recognised and we will not recognise the fact that we have ceased to be sovereign over those territories. What is more, under our present Constitution, with the recent decision of the Supreme Court, no Government in this country except by an amendment of our Constitution, can alter the boundaries of Jammu and Kashmir, because they are part of our sovereign territory, and there can be no change of our national boundaries except by an amendment of our Constitution. So, it has been made very clear. Therefore, the excitement on the part of Shir Tariq about Mangla dam is natural, but in my humble submission, unnecessary, because, no Government in this country—not that it wants to do so, but even if it wants to—can alter the boundaries; it is not possible except by a change in our Constitution.

Then, reference has been made to the fact that we are not taking enough care about it: what have we done to take our country back? Questions have also been asked with regard to the present position. First of all, I would like to say that the present position is that on our sovereign territory, are two administrations: one is the civil administration of India functioning and the Government of the State of Jammu and

Kashmir, indeed as any other State, and the other is the *de facto* administration which is inimical to the exercise of our sovereignty, the so called Azad Government and certain principality governments presumably in these mountain States. This is the *de facto* position; and these are held apart not so much by physical forces as by voluntary agreement on our side. It should not be forgotten that India was the part which initiated these cease-fire negotiations. And that we negotiated at a time when, as some one has stated, there was the prospect of armed victory. Rightly or wrongly, and I believe rightly, we took the view that victory by armed forces alone is not enough and it is necessary to proceed to a settlement. On either side of the cease-fire line are observers of the United Nations and it would not be proper for me to mention what I feel about the performance of the operations in so many cases. They are composed of many nations, and I regret to say that many of them belong to military alliances, whose business it is to report on cease-fire violations. These violations are complained of by the Parties and, if you look at them, they will look like a score-board! That is to say, the aim appears to be — I speak subject to correction, because there is the risk of criticism, but this looks like a score-board — to even up. Actually, we made some hundreds of complaints — I forgets the number now, I think it was 1,028 — against Pakistan and they have made 870 complaints against us. But the score is always even it is always slightly tilted against us over the years. It looks like that. We will leave that alone.

This cease-fire line is not held by any armed forces but is held by observers and by a law that, in fact, operates against us, because we observe international law and very scrupulously, that is, within five miles of that line no armed forces can operate, with the result that when a raid is committed, we cannot do anything about it, because our uniformed men are precluded from going there which will violate that line. That is the position regarding the cease-fire line. Of course, I do not want to whine about the position and we are carrying on as best as we can.

There is comparative quietude, and the solution of the problem of Jammu and Kashmir will rest on the industrial and economic development of our land and the maintenance of our unity. That way, the political and social equilibrium will so shift that there will be no option for the people on the other side except to join their brethren on this side of the Cease-fire line.

Thus it would be better for us, it would be part of our policy that we do not attempt to do that by the violation of an agreement we have reached. We have told the Security Council that under international law every agreement that we have entered into, we shall carry out. But we shall not accept an agreement because somebody says we have accepted it. Secondly, we have also confirmed, we have pointed out that there are certain principles and doctrines of international law which have to be observed, for example what is called *in dubius mittius*, that is to say, if a treaty is entered into by two sides has to be interpreted, it has to be always interpreted liberally in favours of the persons who carries the greater burdens in the implementing of it.

Therefore, in regard to all these matters a different view has to be taken. But it very much depends upon the determination of this country. We may not forget that not long ago — it is now getting on to thirteen years — this country, this part of India was invaded, invaded first by irregulars numbering about a quarter million, and for a few days a single battalion of the Indian army was responsible for checking the tide of invasion. And on the soil of Kashmir lie buried some of the best officers and men of our fighting forces. We owe a debt of gratitude to them, and, what is more, we owe a debt of obligation to see that there shall be no residing on our part — no back sliding on our part in this matter.

Kashmir is a live issue with us, because it is part of our sovereign territory, not because it is a piece of land; it is part of our history, it is part of our kinship, it is a sector of our people. What is more the economic development of that territory, the development of its resources, and the — prevention of the

intrusion of the apparatus of international conflict into the Asian Continent, is very much dependent upon our ability to maintain our hegemony over this strategic area.

## Conference of World Powers on Nuclear Test Explosions\*

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The subject matter of this Resolution has been a matter of deep concern to our Government and our people, and indeed, judged by the evidence that we have, to an overwhelming majority of population in the world. The Resolution as now moved is a private Member's Resolution. The Government welcomes the purposes that the Member has in mind and, subject to certain alterations which I hope the Mover of the Resolution would be able to accept, Government would be prepared to accept it. I will deal with them in the course of my observations.

This Resolution, unlike the Resolution moved in another place, is very limited in its scope. It deals purely and simply with experimental explosions—test explosions—of these weapons. But part of the purpose of Government policy again in asking for the suspension of these tests is in order that the whole process of nuclear and thermo-nuclear war may be arrested. If there were no further tests, the development would stop and that would at least, in a moral sense, be some contribution towards halting the arms race in this field.

The House will remember that in another place, the Prime Minister made a statement of the 4th April, 1954—three years ago—and for the first time asked for a standstill agreement in regard to nuclear and thermo-nuclear weapons of mass destruction. That was the first public appeal that was made, and since then, the desire for, and this proposition of, a suspension of these tests irrespective of other developments in the field of disarmament, atomic or conventional, have gathered

momentum. And today, in various Parliaments of the world, in the Parliaments of Japan and West Germany and from great movements, from individuals and scientists of great standing and other people, the appeal has gone forth that these explosions are unnecessary, pointing out how they speed up the armaments race and what is more, by themselves they are of a great harm—both known, and what is more, the unmeasured harms are even greater.

When in 1919, Lord Rutherford in a laboratory split up the nitrogen atom, he never thought that any nuclear power would be harnessed for any large-scale purposes. He was merely thinking in terms of its contribution to physics and to science generally, and he never thought that it was going to be used for the purpose of mass destruction. However, the development had proceeded in England and afterwards in Germany, and later in the U.S.A., and to such an extent that in July, 1945 at Alamogordo, in New Mexico, the United States exploded the first atom bomb. That atomic bomb, compared to modern bombs, was less powerful. Its explosive power was probably smaller than that of the bombs that were dropped a month later on the two Japanese cities, Hiroshima and Nagasaki. Those bombs are estimated to have an explosive power of 20,000 tons of T.N.T. But, today, no one thinks of them as mere bombs. They are quite enough to destroy a large area. In Hiroshima, about 115 thousand people or so were injured and killed and 365 thousand affected. The greater part of the town was burnt, including the concrete structures and what is more, those who visited the site afterwards were affected by radiation and many have died since. The damage caused to Nagasaki was less, though the bomb was somewhat more powerful.

When one calls the attention of the House to the fact that the explosion of one of the present-day type of hydrogen bombs—the thermo-nuclear bombs as they call it—is equal in explosive power to that of all the explosives used in every war in the world since creation, then they would realise the magnitude of the destructive power of these weapons. A Hydrogen bomb today probably costs a few crores of rupees,



that is, the waspons of mass destruction have become very economical in production which in itself is a great danger. So, after the two explosions in Hiroshima came the developments that are today called the hydrogen bomb developments. The hydrogen bomb is ignited by the atomic bomb. It requires an enormous amount of heat to explode the hydrogen bomb and it releases many million degrees of heat; very much more, many times more, than the centre of the Sun.

Now, they have also tried another kind of hydrogen bomb. It acts, as it were, in three stages; fission, fusion and fission again.

Prof. Bhabha, in his address to the Scientific Conference in Geneva in 1955 convened by the United Nations, forecast that the time may soon come when the fusion process, would be controlled and used for peaceful purposes. I think it was last year when some Soviet scientists visited some atomic station at Harwell, and to a private conference they expanded this idea and the developments that were being made in this direction.

Mankind, therefore, is now in possession of a weapon with which it is possible to well-high destroy whole life, not only human life, but every form of life in creation. There are doubts about this. Some people think that humanity is so persistent in its desire for survival that something will remain, but if anything remains, the effects of radiation will be such that the progeny of what remains will not be the same humanity as we know it—deformed, disease-ridden, the brain power affected by genetic mutations and also the effect of leukaemia on the body itself.

The first of these thermonuclear explosions took place in 1952, and it is significant that though the explosion took place in 1952, the world did not know about its nature till very much later. The more well-known explosion was the explosion in the Pacific Islands, in Bikini, in the Marshal Islands which are part of trust territories and where the United States exploded one of its great hydrogen bombs.

At Bikini, in 1954, the explosion was so great that several

months later—I think 13 months later—measurements were taken and it was found that a million square miles of water was contaminated by radio-activity. this subject deals with explosions, but one does not have to deal in any great detail with its destructive power in war. In war, people who are near these bombs, anywhere near several miles of it, will be affected by the blast and by the heat. Heat would burn people up altogether and blast would destroy everything in its way. But in Bikini atolls, the explosion was made and the effects of that became known to the world because an unfortunate fishing boat which was called 'Fortunate Dragon' and which happened to be about a hundred miles from the explosion site was affected. The crew of 23 fishermen were affected by radio-activity, and that matter came to the attention of the world. The United States Government did a great deal to relieve the suffering and also to rehabilitate the people who had been affected. In this connection, I would like to read an extract about these Bikini tests, and this comes from the National Academy of Sciences in the United States. It says:

"Two days after the 1954 tests, the radio-activity of the surface waters near Bikini was observed to be a million times greater than the naturally occurring radio-activity. this material was transported and diluted by ocean currents, and four months later concentrations three times the natural radiation were found 1,500 miles from the test area; thirteen months later the contaminated water mass had spread over a million square miles. Artificial activity had been reduced to about one-fifth the natural activity, but could be detected 3,500 miles from the source".

So, it is true that radio-activity tends to die down, but in the course of its dying down it spreads all over the place. The Bikini explosion has been followed by a large number of explosions, and so far as we know, there have been something like 110 atomic and thermo-nuclear explosions in the world, 70 of them by the United States, 30, of them by the Soviet Union and 10 by the United Kingdom; and these explosions have taken place in the Siberian deserts or wherever it may be, the Soviet

explosions taking place in the vast expanse of its territory, and others taking place in the open oceans. They happen to be in greater proximity to the Asian Continent. It is not as though we are making any special appeal for the Asian people, but it will be found that the Asiatic people stand to suffer more than the people in the rest of the world, for the reasons which I will mention in the course of my observations about them.

Though very many efforts have been made, we have not reached anything like substantial results in the way of obtaining the suspension of these explosions. It is true, they are no longer ridiculed as they were when they were first proposed in 1954. In fact it is regarded as a debatable subject and the question is how much, when and so on. The Government of India, having been one of the countries concerned in the United Nations with the general problem of disarmament, had put forward proposals during the last several years to be considered by the Disarmament Commission. So far as the atomic side is concerned, our position has always been that there is only one thing to do with nuclear and thermo-nuclear weapons and that is to end or ban them or prohibit them altogether. They cannot be thrown into the sea but they can be dismantled or converted to other purposes, and with regard to explosions, they should be suspended pending the prohibition of these weapons. We regret that the great powers who have the bombs—we have not got them—have not taken this view about it. There has been, however, lately an inclination to accept the suspension if the other fellow suspends it. The question is who is to begin.

In the United Nations and in its various Committees, the position has been that some one ought to stop it. The Soviet Union, the leaders of that country, in a joint statement with our Prime Minister, spoke about the suspension of explosions of these bombs and I wish to say in all earnestness that if they are willing to suspend those explosions, then they ought to suspend them. That will be the greatest contribution that could be made, immediate contribution that could be made, towards disarmament.

As regards stock piles without going into any kind of numbers, one knows that the actual number of bombs existing in the world are enough to destroy mankind several times over. So each country has got enough destructive power in its possession and what can be the advantage of destroying the world 10 times over? Therefore it does not from a purely utilitarian point of view, serve any purpose. The argument however against total abandonment or suspension of these explosions, as I said, was lack of faith that the other fellow will perform and to which has been added, in recent times, when India pressed this problem, that some of these explosions are undetectable and on that our position has been that it is not possible to explode and atom bomb in your pocket and they can be detected and the weight of scientific evidence is in that way. It is quite true that there may be some very peculiar kind of explosions. We pass laws against criminals; even so, certain criminals commit crimes. There is an enormous amount of free expression of opinion against the policy of the Government in all the countries where there is a free press. In America the Bulletin of the Atomic Scientists says:

"It is by now generally known that testing of thermo-nuclear weapons cannot be concealed from the world; its cessation, therefore, will not need verification by international inspection which has been the bone of contention between West and East ever since U.N. negotiations concerning control of atomic energy began in 1945. The testing of inter-continental missiles is not equally easily detected from outside the testing country..... However, a relatively small number of extraterritorial internationally-manned radar stations in each of the large countries would probably suffice to make the concealment of such tests impossible. It can be suggested, therefore, that while fool-proof control of I.B.Ms. as such, such as that of nuclear war-heads, is technically feasible without excessive interference with national sovereignties, the possibility of freezing the arms race in the way suggested

depends only on whether the United States and the Soviet Union want this to happen and not on technical difficulties which stand in the way of control of elimination."

So far as this Resolution is concerned, Government would be willing to accept it if some alterations were made in it. That is to say, if the words "explosions of nuclear and thermo-nuclear weapons of mass destruction" are substituted for the words "that nuclear test explosions" occurring in line 2, we would be agreeable to accept this Resolution. Then, at the end of the second sentence, we want the words "Government should convene a conference of World Powers to consider how best to halt such explosions" to be substituted by the words "and appeals to the Governments producing such weapons and conducting tests of them to suspend such tests pending their total abandonment". The reason is very simple. First of all, Government does not want to be a party to a Resolution which merely refers to nuclear weapons and, secondly, it would be wrong and it would be to retard scientific development if we objected to explosions as such, because there are so many nuclear and thermo-nuclear explosions taking place in laboratories for the advancement of science. What we object to is the testing of these weapons of mass destruction and that is why the first change is necessary.

So far as the second amendment is concerned, I would like to explain the Government's position. The Resolution, as it is before the House, asks Government to convene a conference of World Powers to consider how best to halt such explosions. Apart from the fact that the Government of India and our people should shy away from any suggestion that we carry the responsibility of the world on our shoulders, it is our policy that we have neither the strength nor the qualifications to bring about this sort of thing. Apart from that, the United Nations is now seized of this matter and as loyal members of the United Nations, believing in the Charter and desiring to strengthen the machinery of the United Nations, even if we could convene a conference, until it is proved that the United Nations either

really desires it or there are other reasons for us to put an alternative through, would not be assisting progress and ensuring peace and cooperation. For those reasons, we would like those words deleted and substituted by an appeal to those Governments concerned. Today, there are three Governments concerned in this matter, the Governments of the United States, of the Soviet Union and of the United Kingdom. It is the view of our Government that if either by agreement or by unilateral action, one Government can suspend these test explosions, that will make a great contribution towards disarmament, world co-operation and world peace. Such an appeal coming from this house, representing our peoples, as I said in the beginning, would add to the momentum of mounting opinion. At the same time, we are not in favour of the alternative that is proposed of watering down of the suspension which is a limitation and registration of the tests. As regards proposals now put forward by Canada and by Japan and originally by the British Government that there should be limitation of these tests and that there should be registration with the United Nations, this, in our opinion, is a step backward because the main objective of the suspension, if it is the real objective, is that you cannot depend on the good faith of the other side nor can you inspect and control. That equally applies to limitations. So, it would not be a practical method. Secondly, to limit these explosions by registration presumably in the United Nations is to confer upon them a sanctity which would make atomic war acceptable to the conscience of mankind. For those reasons we have given this amendment. It is not the case that Government takes an attitude of "all or nothing" but the Government does not want to subscribe to a situation which leads in the reverse direction. Government welcome this Resolution if these suggestions could be accepted.

## Compulsory Military Training in Educational Institutions\*

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The House has before it a resolution and amendments. Since we are a legislative chamber, it will be impossible to disregard the text of anything that is put before us, but at the same time I have to take into consideration the fact that this is not a Bill but a Resolution expressing an opinion and therefore not to be too literally taken. If one had to take into account only the resolution, as it stands, it will not be possible for any Government to accept this because it says "introduce compulsory military training into educational institutions", presumably including the nurseries because an educational institution includes every place where education is imparted or, if you want to be narrow, perhaps where money is received from public funds or which comes under the competence of the Ministry of Education. So, the thing is so vague that if one were to stick too literally to it, it will reduce itself to absurdity. But I think it is fair to the Government and to the House to look at the spirit of this Resolution. I would like to say that we welcome its introduction because it does so happen that the mind of the House is diverted to certain aspects of the matter. I will deal with the amendments later on.

Government are unable to accept this Resolution, as it stands, or even with minor modifications. Some of the debate as, Mr. Chairman, you yourself pointed out by implication, has wandered into fields far wider than this, and hon. Members had in mind national conscription in many ways. Let me first say

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\* L.S. Debate. 12 February, 1960.

that suppose we take this not in a literal sense but as a suggestion that boys of college-going age should come under military service then there are other methods of dealing with it. There is no country in the world where educational institutions are placed under compulsory military education.....You may restrict it to college-going students, but the educational institutions could not usurp military education in that way.

Now the question also arises that if Parliament or the country or public opinion and so on is going to introduce compulsion, why should then it be confined to students who are going to colleges, or conversely, why should others be excluded? Are the non-college-going students or villagers less patriotic or are less capable of being disciplined or are they requiring discipline less? Have they lesser responsibilities to contribute either to the stability or to the progress of the country in times of emergency and for other purposes?

.....If the purpose of it is national character and national discipline, it will be a sad day for this nation if national character and discipline can only come through training under arms. It will be a sad day for this nation if we would substitute the word discipline and regard it as synonymous with militarism. We have no desire to militarize the youth of our country. That is why the N.C.C. organisation, while it is very largely organised under the direction and general guidance of the Armed Forces, is still an educational movement as such and we take care to see that their curricular studies are not affected in the course of training. This is the general background which I wanted to give..

The greater part of the debate has been addressed to the N.C.C. and what the Ministry of Defence ought to be responsible for either by themselves or in conjunction with others. Before 1948 young people in this country, whether boys or girls, were not allowed to join organisations of this character. Parliament passed a legislation establishing the N.C.C. in 1948 and in 1949 the Corps was embodied. It was said—the Defence Minister had made no contribution to the development of the



N.C.C. Looking at the figures we find that during the last three years the strength of the N.C.C. has multiplied by 95 per cent., nearly doubled. Today we have nearly 110,000 boys and girls in the senior divisions of the N.C.C.—I exclude the girls if the hon. Member would not mind because they do not bear arms. There are 98 to 99 thousand of them who are senior cadets who have had three years of training and are if not in every sense, at least in the military sense, disciplined and would stand comparison with the territorial armies and the militia of most countries, and certainly with the Cadet Corps of any other country.....

The total strength of the N.C.C. today is under 2.4 lakhs. That is a very vast increase from about ten years ago, or even five years ago. If the A.C.C. is to be taken into account and if Shri Mathur's ideas would find any receptivity at all, *i.e.*, not merely military training but bringing boys into some kind of disciplined formation, another ten lakhs of boys and girls have to be included. The A.C.C. has been recording an increase of well over 100 per cent. in the last three years. The figures for the total of the N.C.C. on 31-3-1957 *i.e.* three years ago, for the whole of the senior and junior divisions, excluding the A.C.C. and girls, was 1,40,057, *i.e.* 1.4 lakhs. On 31st December last year the total strength of the N.C.C. was 2,35,418, comprised of 93,738 boys, 1,14,140 junior divisions and 27,540 girls.

These are the figures I gave, and if these figures are to be challenged, they will stand; they can be challenged, but they will not stand challenged. That is why I said there is a possibility of producing what appears to be impressive arguments if you do not bother about the facts of the case.

Then it was said it is a toy organisation, it does not perform any military or other purpose, no attention is given to it, it has no purpose, no use, for the armed services. I regret very much that an expression of opinion of this kind or this kind of statement should be made because it has an adverse effect on the morale of the corps and upon the officers who work very hard to produce these results.

Over 50 per cent. of all the entrants into the officered

strength of the Indian Army today come through the N.C.C. Last year, 43 per cent. of the cadets who went to Khadakvasia came through the N.C.C.; I do say, they have come through the N.C.C. organisation, but there are boys who have gone through the N.C.C.; they are marked as N.C.C. boys, and their proportion is 43 per cent.

In Dehra Dun, until last year, 10 per cent. of the seats were reserved for persons expressly from the N.C.C. for training purposes. There is a special course there, and it is modified taking into account the N.C.C. training. This year, they have elevated it to 15 per cent. If this stood alone, that would not be very impressive. The remainder of the places were left to the U.P.S.C. to be filled by open competition, and through the open competition, between 50 to 55 per cent is taken up by the N.C.C. boys, with the result that the officers' ranks of the Army today, and to a lesser extent, of the Navy and the Air Force, are more than 50 per cent N.C.C. boys, and it is increasingly so. Over and above that, in the medical or in the engineering corps and in our scientific organisation are large numbers of young people who first go into the N.C.C. and get some ideas of national defence.

Fifty per cent of the entrants into the Armed Forces came through the N.C.C. They are N.C.C. boys. And I stand by this statement. This can be checked up over and over again. That shows how experts have little understanding of the realities of the situation. How do you recruit N.C.C. cadet in the other ranks right into the Armed Forces? How do you take an N.C.C. cadet officer who is probably a school teacher above the military recruiting age into the regular forces of the Army? It is easy enough to make a speech which has no relation to administrative considerations or to the rules appertaining to this particular organisation. So, it is not possible to pick an N.C.C. cadet or boy and say, you now be an officer, without training. That training of the N.C.C. just prepares him to go to the military college, and in the military college, if he does very well, and if among the applicants to the Military college, the main bulk comes from the N.C.C., then the N.C.C. has justified itself.

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Now, I come to the development of the N.C.C. In the last twelve months, two categories have been introduced into the N.C.C. One of the categories is the kind of idea, though not necessarily exactly the kind of idea, which Shri U.C. Patnaik has given expression to, that is to say, out of the N.C.C. ranks should go out not only boys who are recruited to the other ranks but also boys who are recruited to the officers' ranks. So, there has been introduced now into the N.C.C. what is called the officers' training unit which is to take each year 750 boys. And those boys will correspond to gentleman cadets at Dehra Dun. They will all be officers. They would not be officers in units, but they would be cadet officers. And they are being trained as officers. And entry into that will be severely restricted to people who have, on the one hand, the necessary physical stamina and on the other, the necessary physical ability, which is sometimes lacking in a greater part of the recruits. Also, there are specialists either in engineering or medicine or cost accounting or administration or who have great capacity for leadership. That is to say, this number of 750 will be distributed over the universities in India, and will demand only a few from each institution. So, there is room for one to choose. And individuals may also go, that is, boys who have already spent two or three years in the N.C.C., if they are not above the age for recruitment. And if they show promise, from there they will enter the military colleges, only for finishing courses, even as the engineers go into the senior course at Poona. So, that is the position with regard to one category. The other category that has been introduced is what is being called the N.C.C. Rifles. This requires some explanation. The incorporation of rifle regiments in the regular Army is the normal practice. First of all, they are infantry units. They are lightly armed, and can be of quicker movement, and their training is adapted to that purpose. But no impression should be gained that these NCC Rifles units are any kind of cheaper or inferior edition. They go through the full course of training, they will be under the same officers or have the same kind of instructions, and be largely commanded by National Cadet officers who now, after ten years of the NCC,



I think it will be unfair, especially having regard to the principles of our Constitution, not to say what will happen to the girl students. There are today somewhere about 30,000 girl students in the NCC. Corresponding to the National Cadet Corps Rifles is being established a service for the girls who will specialise in field ambulance, nursing, motor transport, signals, administration and things of that character.

Reference has been made to a national emergency. I think it will be a wrong impression to give to the House or to the world that this country is going to base its active national defence on students in schools, when there is no actual declaration of war. But in any country like ours, on the one hand, there is the requirement of discipline inside the community. Whether one agrees with Shri Goray or not, the fact remains that we could do with more discipline, we could do with more organisation, we could do with more capacity of people to move about in a way that does not disturb others and so on. So it is necessary that larger and larger sections of our community, whether it be in colleges or in villages, should come under some form of organisation. For the same reason, the Lok Sahayak Sena is being expanded and its course of training altered.

That being the case, we are introducing this girls' section for these purposes. If unfortunately we should be in an emergency that requires a greater manpower, first the regular Army moves into forward positions, as it must do. Its place is taken by the Territorial Army. And since, Mr. Chairman this debate has in the case of other Members somewhat gone slightly beyond the Resolution, may I say this, that the Territorials are to take the second line? We have yet to see Members of Parliament volunteering to become officers or other ranks of the Territorial Army. You cannot make constant appeals for this. India is the only country in the world where in the Territorial Army of the country, where young persons should come for training and other things required for developing their qualities for officering, every section of the people has not come. It is usually a place where there has to be a composite population. But in any case when these young men get in there and when the Territorial

Army is embodied and they become a regular army, they go forward. These people would be taking over certain functions without necessarily becoming militarised by having to go away from their homes or anything of that kind, because perhaps they will be too young for that. In the field of communications, they take over transport, signals, administration or anything of that kind.

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By the end of the next financial year, we would be in a position to say that there is a general disposition towards going, not necessarily into the armed forces, but into this kind of training and organisation. Government also at various times consider other forms of national discipline which would probably apply to boys and girls who do not come into this or are below the age. This is the account which we have to give and in the circumstances I have mentioned, Government must decline to accept this Resolution.

## Unemployment Problem\*

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Looking at the problem of unemployment, there are no figures of unemployment available. I do not quarrel with that; perhaps, it is as well not to quarrel with it. But looking at the analysis of the Planning Commission, and basing our projections thereon, there are probably 20 million people in this country who are fully unemployed; then, there are probably about some 40 million who are nominally employed, that is to say, employed for four or five days in a month; then, there are probably about 30 percent of our population whose unemployment is disguised. But, being temperamentally conservative, let me confine myself to the conservative figures. Look at the 20 million fully unemployed. That means that in the course of the life of this Parliament, assuming that this population remains static, we would have to find employment for about 5 million people a year. That is on the assumption that the population remains static. But then, the addition to the population is at the rate of 5.7 million every year, according to the projections of the Planning Commission. So, in round figures, this Government and this country has to provide new employment for 10 million people just in order to keep even, not to talk of making any improvements.

Now, what is the prospect in this matter? We know promises have been made during the elections. I vaguely remember them. After all, one does not remember everyone of them, because it is sickening for the mind to do so. but I have heard some of the Members and the Government as a whole

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\* *L.S. Debate*, 1 April, 1971.

speaking about providing a million jobs every year. That makes 5 million jobs during five years. Still we find that we have to provide 45 million jobs more to make up for 50 million. The more recent figure is 1000 jobs in a district. I believe there are 315 districts or so. Taking it as 350 in round figures, that makes 350,000 jobs. Still we are far far away from where we should be. So, the vastness of the problem is there. As Members of Parliament and as citizens of a democracy, we cannot afford to regard this merely as a responsibility of the Government. Our function is not merely to criticize them nor to say that only 44 per cent have voted them. We live in a parliamentary system, and in a Parliamentary system if 44 per cent claim to have 75 per cent majority, then that is the end of it. It is no use wailing about it. These are merely figures. They cannot be tackled by what is called a crash plan.

I regret very much that the Finance Minister tried to make this House feel that every thing was all right by saying that he has provided Rs. 50 crores for a crash plan. I am not going into the quantum of this Rs. 50 crores. This sum of Rs.50 crores is supposed to come from outside the Plan. But what are the resources outside the Plan? The Plan itself has no resources. We are talking about Rs. 50 crores which we are going to get from somewhere else. I think it has no relevance whatsoever to the problem we have to tackle, of trying to provide employment to 10 million unemployed a year as things stand at present, that is to say, statistically speaking.

Therefore, the Rs. 50 crores should not be outside the Plan. It does not mean when you say it is outside the Plan. Even what is inside the Plan is not provided for. It is all in paper and figures. It has to come from some other country or by deficit financing which means putting the Nasik Press to overtime or something of that kind, and heavy taxation in order to keep up the balance or value of money.

So, if we are to deal with the unemployment problem in the way it should be dealt with, it is not sufficient for us to merely criticise some of our plans or to say that there must be a refinery in every State or that there should be steel mill in every



# CORRIGENDA

<u>Page No.</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
7	9 (from below)	letter	latter
10	3	issued	issues
21	Last line	wounded the and	wounded and the sick in land warfare was first passed in 1863
26	1	disciplines	disciplined
38	7 also 13 from (below)	recession	secession
55	7	military	militarily
56	16	in to	in toto
69	16	minister	sinister
79	footnote	missing	<u>R.S. Debate,</u> 24 May, 1957
83	6	would	world
109	8 (from below)	trail	trial
113	8	exist	exit.



# 10

## Constitution (Twenty-Fifth Amendment Bill)\*

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Mr. Deputy-Speaker, I shall not try, if you allow me to say so, to push in open doors because a big majority of the House and the country are in favour of the general purposes of the Bill, that does not mean that legislation should necessarily, on account of these circumstances, be rushed through in the way it is, and should not go through the scrutiny which is possible. My friend Shri Siddhartha Shankar Ray referred to Prof. Laski's quotation. He also said at one time about the right to property that it means that a man can own a tooth brush; that does not mean that we may not nationalise tooth brush factories; we are entitled to keep our own cloth; that does not mean that we may not take under public control textile factories. All that is true.

The debate has been pitched to highlight three points. One is: attack on property, or against property. Distinguished lawyers have taken it upon themselves to deliver a tirade against judiciary. I want to say that while the judiciary is prone to all these things, every litigant who loses the case blames the judge and then goes and blames the lawyer next. I also want protection from the executive; a citizen wants protection from the executive. When the judiciary intervenes, very often it is when the legislature goes beyond the powers that it has appropriated to itself. This legislation has come here inevitably on account of certain occurrences in the Supreme Court of India where its decisions had the effect of marring social

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\* *L S. Debate*, 1 December, 1971.

progress and progress towards egalitarianism. Also these decisions were different from the ones that were there before. I take the support of Mr. Gokhale in this because he does not say he believed in socialism.

He says I am trying to restore what was not there. That is to say, until these judgements which are so often talked about, it was generally understood that the fundamental rights were for the protection of the poor and less privileged and not for the protection of property. Somehow or the other they veered round in that way and the question of the quantity had become so relevant.

Having said so I want to come to some concrete matters. In the first part of the amendment, Government takes the power to substitute 'amount' for compensation. I leave it to the legal advisers to discover for themselves whether thereby they have escaped any troubles from the Supreme Court. If I were to ask as a layman: what is this amount given for? Government cannot give money for nothing; it will be given for purpose and that purpose is compensation. That is why the amount is given.

This legislation simply says "amount". All these amounts will come in regard to different items, different purposes and different legislations. I want the Government to assure the people that this would not be another piece of delegated legislation, conferring unguided power on a lot of officials, that it is to say that equal properties which are taken over would not be unequally treated, that is to say there will be no attempt to open the doors of corruption on a large scale on the one hand and injustice on the other. Therefore, it should be particularly stated that this legislation does no more than make a permissive provision and that the modalities have to come hereafter, that is to say how it is to be acquired, how the ordinary citizen is protected etc. have to come hereafter.

It does not require much argument to say that the people

require protection from the executive. We had the spectacle yesterday of the Home Minister making the most cynical speech I have ever heard a Minister make. When people are beaten to death in jail, he talks about prison reform. Why not a mothers' meeting instead? Therefore, we require protection from the executive in the country.

The Second thing that I want to say particularly to my learned friend Shri Gokhale is that it appears to me that it is wrong to talk about a judicial review. Do the courts review legislation or interpret legislation? The effect may be that whatever you have done may be reversed and so on, but if we ourselves say that they have the right to review legislation, we are giving them more power. Their business is to interpret the law in force, and if that law is misinterpreted or if you think the interpretation should change, then it is up to Parliament to change it. That has been done before in America, in England, where it is said that what the courts do not give Parliament gives. Therefore, to take the view that they have some power of a judicial review or that we are correcting it, I think, would be doing a disservice to ourselves, because we are conferring on the judiciary a power which they themselves have not claimed. There is no question of a judicial review. They can interpret legislation. That interpretation may have the effect of nullifying the whole thing, of changing it and so on. It has gone on for years in that way.

With regard to the observations made by the Law Minister, I think it was a great pity and I am sure that is not the intention of the Minister concerned, if may be the intention of others. In this large country of ours, the judiciary is not only the Supreme Court. A large number of smaller Judges are sitting everywhere, and for good reason or other, they enjoy a degree of confidence in spite of all that has happened in the country. If we go round and speak in this Parliament, if Ministers, the Prime Minister and everybody else were to say that these are people—what did Mr. Gokhale say?—who belong to three generations back or something of that kind, that only shows that even a judge who becomes a Minister afterwards can say something which is silly. That is all it means, nothing else. in

the positions we have, if we come up here and indulge in wholesale condemnation in this way, we cannot expect the ordinary person, the litigant and others, to have any respect for the judiciary.

Our judiciary is not respected in the sense of worshipping an idol. In the parliamentary system, there are different branches of polity as such, through we have no separation of power. And I suppose that even in a communist society there will be courts, even in a Jana Sangh society there will be courts, even in a Swatantra society there will be courts. And even if there is no organised society, even in Pre-human existence there is a degree of adjudication even among animals as such. Therefore, at some point it is done, and therefore it appears to me that in an advanced system like representative democracy, it will be a great mistake to enable people to say that the great people are saying that the judiciary is nothing, and so they will also say the same thing.

I do not know what amendments there are. I was not here this morning. Mr. Gokhale must have made up his mind by now. I am not concerned about it. These are all very small, compared to the main issue. This legislation is necessary. There will be more amendments to this constitution, because this is a growing society. Whether wisely or otherwise, those who drafted the Constitution decided to put everything into it, including the salaries of judges, where you may sit and where you may not and the rest of it, with 365 or 465 articles or whatever their number is, and a large number of Schedules. The more detailed the Constitution, the more the number of amendments that will come. Usually, people think that if you put everything into it, you would not have to put anything afterwards. But that has not been our experience. That is probably the reason why we had so many amendments in so few a number of years. There will be more amendments, which reflects the fact that there are changes, whether for good or evil in our society, which is a good thing.

There is an amendment which have been discussed and which the newspapers tell me Government is going to accept. That is in regard to minorities. I am sorry Mr. Anthony is not

here. I am sure what I say will not be popular. I can understand special conditions for a school run for minorities. But I fail to understand how a school can have a special treatment because the school is run by a member of the minority community. All I have to do is to get hold of a member of a minority community—Mr. Gupta, for example—and make a trust and put it in charge of him. That is to say, this is one of the subterfuges that will be adopted. All schools in our country are more or less under a general system. They appear for the same examination one way or another and whether backward or forward, they are all poor. Therefore, the real issue is, whether there should be a special provision in regard to educational institutions. I had hoped that Mr. S. S. Ray, with this titular control over education, perhaps would have said something about it. What we are really concerned about is education. There is no reason why a comparatively harsh provision should not be taken away in the interest of education for all, because the so-called minority institutions have large properties whereas the overwhelming majority of people are people who do not belong to those minority communities. Even about reservation, this and that, which we have illogically followed for so many years, I am not saying anything about that. These are not schools for minorities, but these are schools of minorities. If the amendment had said, "schools for minorities", there may be some logic in it. But when it says "schools of minorities", it is merely creating a privileged class under this cover of minorities as such.

May be my understanding is very little, but I have not been able to understand all this fuss about directive principles. Would you have legislation saying "we are implementing the directive principle" or, would you have legislation saying "we are going to have free education"? That is to say, the legislation that comes will be something specific. Therefore, this purely political clap-trap and vote-catching. That is to say, we are now elevating the directive principles to the pedestal of fundamental rights and so on. That seems very illogical, because the general charge is, you have pulled down the fundamental rights; how

can you elevate this? Therefore, all this controversy whether it should be amenable to courts or not becomes unreal in that way. Of course, if you abolish the court, there will be no trouble from them. But so long as there are courts, things will be justiciable. The question whether a thing justiciable or not itself will go to the court. Anybody can go there with a complaint and the judge, if he is so disposed—most of them would be admitted. Whether the ballot papers are chemically treated or not is a case.

Any body can go and complain. Therefore, it is a futile exercise, in my opinion. But, of course, futility is part of life and therefore, they can do so. Therefore, I support the amendment of the Constitution but I do not support the arguments advanced for it. It reminds me of what an old judge said to his junior: give your conclusions, you are bound to be right, but never give your arguments because you are bound to be wrong. That is the position. Without lengthy speeches, and calling everybody names when your ideas come in conflict with theirs, without accusing the opposition of performing some balancing acts this would have been very much better.

It could have been said that this amendment had become necessary because of the bank nationalisation. Here may I say that we will give a large amount of money to many of the banks as compensation not because the court said so but because the government mismanaged bank nationalisation; because they mismanaged the taking over of the banks, they had to pay Rs. 40 crores more than what they should. So, the present Chief Justice, when he was a Judge, said that government could have done it in a other way. Therefore, you cannot find a stalking-horse for your own mistakes in this way. Any amendment of the Constitution, taking away a comma or full stop, that alone is not going to help you.

May I say in conclusion that legislation has its own limitations? If legislation is so efficacious there would be no untouchability in this country because it is said that un-



touchability is abolished by law. The emphasis is on the word "law". It is abolished only in law, but not in practice. That is what it means. For 50 or 60 years we have this child marriage restraint legislation in this country. When I say this, I hope nobody is offended because a great majority of the marriages in this country are child marriages. So, mere legislation will not do.

There are people who advocate legislation for price control. It will only result in black marketing. In a capitalist system it will only lead to greater corruption and nothing else. It is true that anti-social elements have to be hanged by the neck, but that is another matter. Control is necessary but that is possible only in a planned society. How can you introduce control in a state of anarchy? Of course, this is not a part of the argument in relation to this Bill.

I, therefore, conclude by saying that we all, particularly the Members of Parliament owning governmental responsibilities, must be aware of the limitations of the efficacy of the legislation. Very often it leads to opposite results. Because, we tell ourselves and we tell other countries this. For example, when other countries talk about untouchability and child marriage we say "Oh yes, we have abolished them by law". Therefore, we must be sure about that.

The modalities by which these principles are to be implemented will naturally come before Parliament. I hope the Law Minister will consider this point that these modalities must be of a quasi-judicial character and not conferring naked, uncontrolled, untrammelled powers on Ministers, good, bad or indifferent, upon officials, indifferent corrupt or otherwise, and the results of their action visit upon people who cannot fight them.

# 11 Contempt of Courts Bill\*

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With great respect, I entirely agree with the Law Minister in saying that there must be provision to protect a citizen against comments of newspapers in matters that are pending before the courts, particularly in criminal cases. But again, with regret and yet with respect, I should say that the Law Minister should not use this argument which is necessary to defend something which is indefensible. It is necessary for this House to realise that the whole law of contempt of court is an inroad into the system or the concept of natural justice. It is the judge who is the prosecutor in this case.

I fully agree that there must be some provision for what is called contempt *ex facie*. That is to say, if a man throws a bottle of ink against a judge or does something of that kind, there must be some provision to punish him for contempt and some limitations in regard to punishment. But under the law as it stands, that is not the situation. It would be entirely defensible if there was a special provision that matters that are *sub judice* should not be commented upon in regard to the subject-matter so as to prejudice the trial. Otherwise, you will have situations where newspapers may try cases. I entirely agree with the hon. Minister there. But the situation in this country is different.

I regret that some reference has been made here to the Kerala case. I had also something to do with it. The crux of the matter was that the person who was the contemner made some comment of a philosophical character, and I believe he said that the judges were dominated by class prejudice, because they

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\* L.S. Debate, 20 December, 1971.

came from particular classes. He did not say that any particular judge was; he did not say that the court was. In fact, the person concerned did not say that the judgment should be in a particular way and so on, but he had merely given a quotation, and rightly or wrongly he had quoted the sentence that judges were dominated by class prejudice. This sort of thing has been said by very conservative judges like Justice Cordozo and also by liberal judges before, who said that you could not take away from a judge his sub-conscious impulses; the fact that he belongs to a particular class which believes in protection of property would make him believe that any talk of inroads into property would be regarded as very inexcusable. So, to meet this kind of situation, this kind of observation was made; Justice Corodozo was dominated by this feelings so much so that he had to impose the guilt upon himself or the guilt consciousness and he had put it that way.

Therefore, when you have a situation where the judge is the prosecutor and the judge at the same time then it is a very serious position, especially when a person can be held guilty of contempt of courts by judges at any level and you cannot make any distinction in regard to them.

My submission would become clearer if I narrate two or three facts in history. In the legal history of India there is a very famous case of contempt of court, and the same law continues now also. That was the worst case of contempt of court, namely the case of *Lala Agar Krishna Lal*; this case had gone even to the Privy Council for contempt upon contempt. At that time, they could not deal with this at the level of the judiciary, and, therefore, they had dealt with it in other ways. There, it was a matter of judicial prosecution. That machinery is still there.

All the World over, there has been opposition to the utilisation of contempt of court in many cases. In countries like the UK, very few judges take notice of small matters. But we cannot say that, that is the situation in our country. And what was the answer given when the contempt law was sought to be removed? There is the famous judgment which says that while this law may not be necessary in other countries, in the case of

colonial countries or countries inhabited by coloured people, you cannot remove this law. And that is the law which the Law Minister wants to perpetuate now, because he also seems to feel that in the case of colonial countries or in the case of countries inhabited by coloured people—where the colour goes into the brains—also—this kind of law must be upheld. Then, there was the famous case of a newspaper which had said something about the system of law in this country.

Then, we had the Namboodiripad case. First of all, I would like to take this opportunity of saying that it is very wrong even to allow a suggestion that there was any attempt on the part of Advocate-General not to go on with it. I am not trying to defend him here, because he can defend himself. But let me tell you what the correct position was, and it was that the Government there did not want to go on with it, just as it happens in criminal cases where other private parties are involved. Therefore, it is not correct to have made any such remarks in regard to the Advocate-General.

If the law is merely for the protection of the citizen, then we are all at one with the hon. Minister. But if the law is for the protection of a judge as against a citizen, we are entitled to turn round and ask what exactly Government have in view. A judge is protected by various laws. For instance, there is the penal law of the country. The judge should not be more sensitive than anybody else. Then, there are other provisions to protect the judges. So, why should we add these provisions here? And what is more, there may be cases of the type of the Namboodiripad case which has been referred to earlier. That is an instance where it would unleash that type of feeling, to put it very mildly, and in fact, one of my colleagues in the Bar who is now a judge of the Supreme Court, said that there was no contempt. Another colleague said: 'there is contempt, but a small fine would do'. A third judge said: 'I would like to send him to imprisonment'—that is to say for an expression of opinion. And this will happen once there is the power to do so. You cannot expect human beings—even judges are, I believe, human beings—not to use it according to their prejudice. You

cannot escape the fact that we have a judiciary which, for good reasons, I think, is comparatively isolated from the trends of public opinion. When great social changes take place, and very sharp words had been used, if the courts were to go by the technicalities and say 'this is contempt', there is no freedom of speech.

There is also a provision here which says that anything by way of fair comment is not contempt. There I think the Minister gives the case away. Who decides what is fair comment? The judge. Fair comment has always been—even if it is libel—overlooked. My submission is that judges should not live in an ivory tower in this way. They should be open to the glare. They can go to court for action under sedition, slander, libel or whatever it is. All provisions for it are there in the code. If it is a question of spreading hatred, setting one class of people against another, that also is provided for in our penal law. Our penal law is so drastic, left as Macaulay drafted at that time, that there is no necessity for anything else. With the contempt law as provided which makes an inroad into the fundamental rights in the Constitution and says that it does not cover the law of contempt, with a special exemption, you are handing it over to the judges who will say: the matter has been before Parliament and Parliament still thinks that we should have this power. I think the power of imprisonment is unjustified except in cases where there is comment on a criminal cases pending action or where there is provision which says that there is room for appeal and so on.

It must be understood that these are very expensive and lengthy proceedings. Contempt action is an extremely lengthy proceeding. In this particular case, to which reference was made—otherwise I would not have alluded to it—the longest judgment was a dissertation on Marxist theory which could itself have led to comment afterwards. The main contention of the judge was that he knew German and counsel did not know German.

So these things happen. I do not think the law of contempt should be allowed to have such wide scope and create a

situation as happened in the case of Lala Har Kishan Lal, where the proceedings dragged on for years, the man was impoverished and rendered bankrupt and everything gone, because the Chief Justice did not like him—that was all there was to it.

The other case was, as I said, that in colonial countries, in places inhabited by coloured peoples this kind of law was necessary. If we accept that, we can have this. But I thought we had gone past that.

I may sound a bit unorthodox if I were to refer to the way Parliament works over here. But this has been put in. God knows why. It is an instrument of oppression in the hands of the judiciary, nothing else. After all, the judiciary can and should stand to criticism. In writing, we criticise judges. We say the judgment is perverse. You cannot do anything about it. Everyday you go to the superior court and say that the judgment of the lower court is perverse, *mala fide*, this that and the other. That can be said there. It can be said here also. But a newspaperman cannot publish it. I can say here that a judge has been actuated by malice. But if the newspaper chap publishes it, he gets into trouble. I can say it here but I can not say it outside.

The whole of this law of contempt is like setting fire to a house in order to get rid of a house or something like that.

There is enough provision already in existing laws. We should not have a law which is of an omnibus character. It should be confined to the judicial processes, where either by tampering with evidence or by maligning the character of somebody who is under trial as it often happens, for example, you have situations in the United States where newspapers try case, the whole trial is vitiated and brought into contempt. There I agree with the Law Minister that that should be prevented. But I was very surprised to see that it has come back. I thought it had died down in course of time. Instead of that, it has come back. We have to solidly fight this contempt of law. They are arming the judiciary—and judiciary includes, the

magistrates, I presume, or, any magistrate for that matter—and arming them with the power to sentence people to undergo imprisonment in jail. The Corporations of course would be in a different position. I therefore think this measure aims at curbing our fundamental rights, the free expression of opinion and speech and also it prevents even academic comments about the nature of society, about what the Government think; these are matters of the sub-conscious minds; if you say I have my own views in my sub-conscious mind; it is in my head or somebody else's head, then, it cannot be brought into or within the ambit of the Contempt of Judges Act. There should be no case for contempt even in regard to a general statement in regard to the institution as a whole in order to change it. That is what we want. When there is no particular contempt or when there is no contempt of a particular judge or a particular court or a particular cause of action, why is this necessary? There may be a provision saying that it must be of a serious character. But there is no provision, if I have understood it, but even then, a judge again has to decide what is substantial and what is not substantial. May be another judge, but they are of the same brother-hood of judges, because other factors come into it. If it is not done in this way, then it may come back on him and there may be a contempt of judiciary and so on. If there is a real contempt, as I said, in the court, when somebody insults a judge, the person concerned may be given punishment; it may be a case for punishing immediately, but these long cases go on for months just because he expresses his opinion in regard to the state of society or he may be a person who knows anything about the social psychology. So, the judges are not dominated by one way or the other. The judge of a particular community may have one view; the judge of a particular area may have one view or something like that.

I remember in a small magistrate's court in England, when an Indian seaman walked in to give evidence, the magistrate said, "Yes; I know what he will say." It goes on every day. The magistrate say, "I know him; I know what he is going to say." That can be cited here. Conferring powers, arbitrary powers on

people who are prosecutors and judges at the same time is violation of the principle of natural law, natural justice where a judge sits in judgement on whether he has been attacked or not.

Therefore, these measures should be limited merely to cases which are sub-judice, where the citizen is affected. The provision says that only in the case of fair comment it is not contempt. It does not mean anything at all, because fair comment is decided by the judge; whether it is fair or not.

I would say that the law of libel has provision for a penal law and the general respect in which the community holds the judiciary, which happens fortunately in our country, is adequate protection for a decent judge, and we should not be so sensitive as to be worried about something of what the newspaper says.



## Proclamation of Emergency\*

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The unanimity of the sentiments expressed in this House is not only a proclamation to Pakistan, but to the world, and particularly to that part of the world whose weapons have always been used against us. These expressions have been inspired by sentiments which may appear in the surface to be emotional, but this emotion is a reflection of the firm and resolute will of this nation. If the Prime Minister at any time wanted proof of this, she has had it from the lips of people who, not as professionals but as part of their duty, criticise her in this House.

There are one or two matters to which I would like to refer at this moment. I do not say my word is the last on this subject. The cease-fire line in Kashmir no longer exists. The cease-fire agreement is dead by the act of aggression. I hope it is for the Government to decide—it is not for us individuals to lay it down—to hand over the exit permits to the members of the UN Observation Commission, because their capacity will now be not to supervise the cease-fire line objectively, but to be the allies of the forces that resist us. In the least, these observers are very much in the way and they might get killed. So, we have a great responsibility. So, we shall ask them to go away or send them away to our guest houses, because there is a tremendous international responsibility. The life of one of these international observers will emotionally surcharge the UN in a way that it forgets all other matters.

Secondly, I heard the Prime Minister say—my hearing is still

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\* *L.S. Debate*, 4 December, 1971.

very good—that Pakistan has declared war against us. I beg of her to verify the statement with great accuracy, because if Pakistan has declared war against us, it is one matter. But if Pakistan has simply said, it has declared a state of war, it is a different matter. Declaration of a state of war is a statement made by the State of Pakistan to its own people and is still undeclared war. But so far as we are concerned, war exists. This is the occasion to hand over the exist permit to the High Commissioner of Pakistan here, which takes away whatever inhibitions there may have been in the way of the recognition of Bangla Desh. That is to say, Pakistan State is no longer a recognised State so far as we are concerned. Of course, if they have declared war against us, there is the end of it. That is to say, there is nothing standing in the way. But this matter must be cleared, because in the eminent position the Prime Minister occupies, if she says in the House that Pakistan has declared war against us, international opinion will turn round and say, this is an exaggeration. Now, it is no exaggeration in fact, but we should not put ourselves in the wrong in this matter. If it is not declared war, it is undeclared war and what is known as pre-emptive war. Pre-emptive war is the most sinful of all things. The decision who to hit and where to hit must remain with the Government and not with the Generals. *War is too serious a matter to be entrusted to Generals.* Therefore, I have no doubt that the Defence Minister who is otherwise pre-occupied will see to it that where and in which terms to hit is left to be decided by Government and nobody else.

I do hope that today, tomorrow or whenever, it is, Bangla Desh should be recognised because that would be a fitting answer to Pakistan, almost as powerful as the lethal blows that we may deliver.

I want to conclude by saying, this is a sorry business. War is a gruesome affairs, especially in a population of our size

without the necessary equipment for shelters and things of that character, with a nation that has not seen a war on its own soil since the battle of Wandiwash. That is to say, our people, our professional soldiers, have fought in other fields of battle with glory, but on this soil, we have not seen a war. War is a gruesome business, with the black-outs, the fear of bombing, etc. It is a gruesome business. So, there may be no competition amongst us as to who makes the most extreme speeches, because that hits nobody. I want to assure the Prime Minister that I belong to no party. Apart from that, there are no differences here; we are one nation.

Coming to war, this country never wanted to wage a war. But when our frontiers beyond the cease-fire line are unfortunately compromised by the action of another country, when another country decides to indulge in border violation and things of that kind I think a new situation arises. Therefore, while we believe in peace at any price we are in the position of an old American President who is reported to have said "I am a man of peace at any price but the present price is war". But, in the present case, we do not have to make a choice; the enemy has made the choice. War action has taken place by the bombing of our air-field, for the crippling of our jawans, not of our striking power. And I have no doubt that in the operations which we are forced to undertake, as Shri Indrajit Gupta has rightly pointed out, we have no quarrel with the people of Pakistan and we do not propose to indulge in, we will make sure that we do not propose to indulge in, the Nazi form of war, the war of exterminating peaceful population. It is only in the extreme circumstances where military targets are bombed—and our firing will never fail—that people will be put to hardship, and that we will not use those deadly weapons called napalm bombs and things like that which cripple young people. If you see people who have been affected by that you would never allow them to be used. These are things which at this time and on this occasion we should not forget in the enthusiasm of crushing the enemy. I know that the enemy can never be

crushed; if he is crushed he will rise again but we have to pull out those fangs that try to kill us.

Finally, I hope the Prime Minister will at no time heed the counsel of unwisdom which says the Parliament must go. That proceeds on the assumption that Parliament is a luxury which we tolerate. That is not so. Parliament is a necessary establishment, in order that in case there would be reverses—and there is no doubt about it that there would be reverses; there can be no war without reverses except in the thinking of people sometimes—the Parliament can act as the safety valve on such occasions. So, this Parliament has to sit. When bombs were raining over London the British Parliament had midnight sessions and two bombs actually struck the House when they were sitting. This is the thing which shook Hitler that people do not go away even when bombs are showered. Our people are also the same. We have passion for defending this country. When we could shake a mighty empire to its foundations, so we can shake the mighty empires that support the aggressor when aggression takes place and we should warn the world that any assistance given to the aggression in India is an act of aggression against India itself.

## Maintenance of Internal Security Bill\*

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Mr. Chairman, Sir, I make no apology for taking the time of this House for intervening in this debate because in my respectful submission every person who is capable of articulation should express his views against the total negation of the principles of our Constitution, brought at a time anyway, that is neither parliamentary nor which stands to the canons of decency.

That apart, I want to recall to ourselves that half a century ago, those who went before us and who had a considerable responsibility for the position of the ruling party and the Government had called such a measure as a black Act. That should not be forgotten. That was the criminal law of India. But that was justiciable. The people could go to a court of law. What is the position today?

I want to say that this is a legislation which should not have been put through in this way. It should have been discussed clause by clause and circulated for public opinion. We have the Law Minister today with judicial experience. But he has not been long enough in this House to know how the politicians work. We have a situation here, for the purpose of this legislation to dispense with not only judicial machinery but the whole concept of the rule of law. What does the Government want? Whatever they do should not be questioned and it should not be brought before the court. They think, that they have suspended *habeas corpus*. But the lawyers can read it differently. Mr. Gokhale knows it very well.

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\* L.S. Debate, 17 June, 1971

The Bill is drafted in such a way that there is no application of *habeas corpus* before the Supreme Court and it will be for the Judges to decide that and, before the Judges decide one way or the other, there will be furore raised about it.

We have a law here which is the negation of the rule of law. When we say, it is the negation of law—whatever we make is law and, therefore, it remains law—it is against the principle of natural justice, whereby a man can be told as to what for he is put in prison and whereby he can have a legal assistance or other assistance that is provided in the Constitution. Article 22 of the Constitution provides that he can have legal assistance and it also says, except when there is a preventive detention measure. It raises a point where the court says, whether it is a matter of preventive detention or not, because there is nothing in the title that it is a preventive detention measure. No doubt, the Attorney-General will read it the other way. You have to establish before the court that it is a preventive detention measure before you can deny somebody whom you have detained to have legal assistance.

Going back to the history, even under the regulations of tyrannical law, a man was entitled to defence paid for by the Government under the tyrannical rule of the empire. And what is the position today? Today, we are told that three persons of the eminence of High Court Judges will sit as an advisory board *in Camera*.

But anyway these three eminent gentlemen of the status of High Court Judges are to be there on the Advisory Committee. In my respectful submission, any person who agrees to function in a Judicial capacity under star chamber methods is not qualified to be a High Court Judge. The essence of dispensing of justice is that not only justice is done but it must appear to have been done. It must appear to be done and in

that background, when they sit *in camera*, you know what happens and to whom. That is my experience. When a person is detained, preventive or otherwise and when his liberty is taken away in this way, would it be correct or what sort of jurisprudence that permits a majority opinion to put him in prison? If even one person is against it, that means there is some doubt about it. What is the basis of our Constitution? At least the person detaining, the authority detaining, must prove beyond doubt to themselves, not to us.

Then we come to the other part of it. The whole of this thing is based upon satisfaction. Whose satisfaction? The satisfaction of a Commissioner, a Commissioner who need not necessarily take orders from the Chief Minister or a Cabinet Minister, but the District Magistrate or Addl. Magistrate. Therefore, you have a situation where the satisfaction is a subjective satisfaction. The essence of satisfaction that is defensible in a civilised society is that you can test that satisfaction and if you cannot test that satisfaction, it is no law. That is to say it is the private feeling of somebody. All I can say is that the executive may have reason to doubt. They believe that they have reason to doubt. They think that they have reason to doubt and anybody can think what they want that way. When you go on to say that there is suspicion in the mind of the executive, I thought that the established rule of jurisprudence in all civilised societies is that the thought of man is not punishable. That is why I don't accuse Mr. Pant of the motives in which he spoke. I regret the banter, the levity and the jibes he has made in a very serious matter like this. It will be a black day for this Parliament. What you are doing is not amending the Constitution. We are really blotting out the Constitution by a subterfuge. Why do you want amendments regarding privy purses? Block them all together in that. They are enemies of the State. You can define them so. You can define anyone 'enemy of the State'. Nobody is going to ask how have you determined it.

Mr. Speaker, I am not going clause by clause. It says that when the executive finds that somebody probably has been detained by mistake, he will be let off. Now, even if he is let off,

if he goes to the court for false imprisonment, then you won't tell him the reason why he was detained. What sort of law is this? That is to say that if a person, either by mistake or by malice forethought, is detained, while the executive discovers afterwards that it is a wrong detention, then he is set free. But what is the remedy? Nothing. There is no provision for compensation, no restoration of his prestige or integrity. Nothing of that kind. It is quite true that according to the political agitation the stigma of going to jail is probably different. In African countries where large numbers of people have gone to prison during their national movements, they are called PGs (Prison Graduates). Now we are producing Prison Post-Graduates!

Therefore, the third aspect of this is that we are introducing into our legislative system and our administrative system two new concepts. One is not that there will be three arms of our society—the executive, the judicial and the legislative, but the executive is appropriating into itself all legislative, administrative, punitive and every other powers. These officers—neither the Home Minister nor his Addl. Magistrate nor his chaprasi—are judicial men. They are arms of the executive and for 70 to 80 years we have been shouting in this country for the separation of the judiciary from the executive. And here, you are arming the Executive with every power that is required to exercise quasi-judicial functions without any way of checking it. This is unguided, unrestrained, uncontrolled, undirected arbitrary power. And, this power—vested in a party which has either a policy or lack of it which is merely backed by myraids of persons who sit behind, is a tyranny of a kind which we should not support. This is the beginning of fascist rule.

It is regrettable that Parliamentary attention could not be given to this. You are scrapping the fundamental principle of the



**Constitution; you are re-writing the Constitution in a reverse way. I cannot say I oppose this Bill totally. I propose to vote for one sub-clause of this Bill, that is, Clause 18(1) which says:**

**"The Maintenance of Internal Security Ordinance, 1971, is hereby repealed."**

**I shall vote for that; not for the others.**

**SOURCES CONSULTED**

1. Lok Sabha Debate, 9 February, 1960.
2. Lok Sabha Debate, 1 August, 1972.
3. Lok Sabha Debate, 10 August, 1971.
4. Rajya Sabha Debate, 9 September, 1957.
5. Lok Sabha Debate, 23 November, 1960.
6. Lok Sabha Debate, 22 April, 1960.
7. Rajya Sabha Debate, 24 May, 1957.
8. Lok Sabha Debate, 12 February, 1960.
9. Lok Sabha Debate, 1 April, 1971.
10. Lok Sabha Debate, 1 December, 1971.
11. Lok Sabha Debate, 20 December, 1971.
12. Lok Sabha Debate, 4 December, 1971.
13. Lok Sabha Debate, 17 June, 1971.