

8 February 1957¹

Although India is not a member of the Security Council, nevertheless, since I am the first representative other than the President to speak here since his assumption of that high office, I wish to tender to him the congratulations and the esteem of my delegation and my country.

I should also like to take this opportunity to express our tribute to our distinguished colleague, Mr Carlos Romulo, a great Asian and very old trusted and valued representative here at the United Nations.

Before I address myself to the tasks which are before me this afternoon, I should like to ask the indulgence of the Council if I refer to a matter which, although not directly connected with the subject of Kashmir, arises from the proceedings last Thursday, 24 January, before this Council. On that occasion, the representative of the United Kingdom, in expressing his gratification with regard to the relations between his country and Pakistan and India, said:

“Only the voice of envy would, I think, deny that the Englishmen, the Scots, the Welsh and the Irish – for on a small scale, we too have our diversity – all those who served the Crown in the old imperial India and in the transitional period came to feel a deep devotion to the peoples among whom they passed their lives. . .” (765th meeting, para 5)

Not only do I agree with this statement, but I wish to refer to it now because, in the copy of the verbatim record which I have before me, the reference is to the “voice of India” rather than the “voice of envy.” I am quite aware of the fact that my colleague from the United Kingdom and his mighty empire can take care of themselves. Nevertheless, since these words have been telegraphed all over the world, since there is so much bitterness and difficulty in the world as it is, and since this particular issue, in view of the virulent expression of opinion in the British Press, will create further and unnecessary reactions in India, as it has already done, I should like to take this opportunity, if my colleague from the United Kingdom does not mind, since it is really his prerogative, to say that the correct version, and the version that most delegations heard – although some people heard it the other way – was “the voice of envy.” I say this because I hope that this correction will go around the world in the same way in which the unfortunate other phrase did.

This afternoon, for the convenience of the Security Council, I should like to outline roughly what my Government intends to submit. And in order that the

¹ *Official Records of the United Nations Security Council*, Twelfth year, 767th meeting, pages 1-66.

Security Council may be in a more patient mood – not that it was otherwise before – I should like to say at once that we hope and intend that this particular intervention of ours will be concluded this afternoon.

It is my intention within a brief compass to answer some of the statements made by my distinguished colleague the Foreign Minister of Pakistan. In doing so I shall not attempt to answer his statement paragraph by paragraph or line by line because that would be a very laborious and tiresome process and it would take the time of the Council unnecessarily. I also want to say that it is not my intention, nor the desire of the Government of India, to refer to the personal aspersions and insinuations in that speech because that would be of no interest to the member States here and, since we are neighbours, I suppose we can take it. I therefore only propose to deal with those aspects of the matter which are directly related to this problem and it is only where the alleged conditions in India are cited as being relevant to the consideration of Kashmir in regard to discrimination and so forth that I propose to correct the impressions that have been created.

I said last time (766th meeting) that many questions in the Foreign Minister's statement, if either placed in their proper context or read with the whole paragraph or section of which it is part, would probably in the majority of cases bear a different meaning. That is the purpose of the first part of my intervention and I will try to make it as brief as possible.

Accession of the State of Jammu and Kashmir to India

The first of the series of allegations, arguments and contentions is with regard to the position of India in relation to Kashmir. As is well known Kashmir is – by accession, by the constitutional law of India, of Britain as things were then, and the recognised process of international law – an integral part of the Union of India. It is the contention of Pakistan Government sometimes that this is not the case. Sometimes the contention is that this relationship was brought about by us by force and by fraud, and the purpose of refuting this is not merely that this misstatement should not remain uncorrected but that it is basic to the consideration of the whole question, because it explains how our two countries got into the present position.

First of all, there was the use of force in Kashmir. India used force in Kashmir, on the territory of Kashmir, but to repel the invaders. The element of force which brought about or even perhaps speeded up the process of accession and necessitated the ending of the vacillation of the Maharaja of Kashmir has been rightly spoken of by the then Governor-General of India, Lord Mountbatten, who said that the accession had indeed been brought about by violence, but the violence came from the tribes, for whom Pakistan and not India was responsible.

As far as we are concerned, the facts which I would invite member States around this table to bear in mind are: first of all, too see how we got in there. We got in

there for two reasons; first to protect a neighbouring area which was invaded; and it is my humble submission that even apart from any question of accession, even apart from the Cabinet Mission memorandum and even the partition of India – and I will not refer to particular countries – if another small neighbouring country was similarly invaded it would be the duty of our country to go to its protection if asked, even if no other circumstances existed. What is more, in this particular case, the history of the last 100 years shows that the power which ruled India – and we are the successor State – had always gone to the protection of the Indian princely states when they were in trouble of one kind or another.

Over and above that, in this matter there was the fact of accession to which I have referred. It has been contended that this was brought about fraudulently. I want therefore to refer to the circumstances of force and fraud. It was contended on the last occasion that India became independent on 15 August 1947. Then what was the hurry for the Maharaja of Kashmir to ask for a standstill agreement on 12 August? The implication is that on 12 August there was already a conspiracy between India and the Maharaja in order to establish some relations. I am surprised, as the Council would be if it looked into the documents, at this particular statement. A document was circulated to members of the Security Council containing the telegrams that went from the Government of Kashmir to the Government of Pakistan and the Government of India, and in this document these telegrams bear identical dates, that is to say, they were sent on the same day. So if it can be questioned why Maharaja asked for a standstill agreement with India three days before the independence, we could equally ask why the Maharaja had asked for a standstill agreement with Pakistan two and a half days before its independence – Pakistan was born half a day before us.

So there was here no attempt to force any position. Indeed, even if it had been the desire of India to bring about that act of accession, there would have been plenty of time before then to get things done. Indian troops could have been there on the same day as our independence was declared; there would have been a new Indian Government installed with the capacity to give orders without any British authority. So far as this is concerned I do not want to ask the Council merely to take note of the assertions and statements I make, but there is plenty of authority on this matter relating to the fact that India had made no preparations for armed intervention – and that authority is British authority.

There are published works on Kashmir, in the main hostile to us, being largely based on ignorance of basic facts, from which I propose to quote on this particular question. One of these is a book called *Danger in Kashmir* written by Josef Korbel, a Czechoslovak writer who was at one time Chairman of the United Nations Commission. Generally speaking his conclusions are not those which bring the matter up to date, but in this particular case he says:

“Though there is here no direct evidence concerning the conversation between Mountbatten and the Maharaja, there is reason to believe that the

Pakistanis are mistaken in their conviction that Mountbatten from the beginning connived with the Government of India to force the Maharaja and with him the State of Jammu and Kashmir into accession.

“Lord Mountbatten was very anxious to dispel any doubt about his own position. Speaking before the East India Association in London shortly after. . . he repeated, ‘In the case of Kashmir I went up personally and saw the Maharaja. I spent four days with him in July [sic], on every one of those four days I persisted with the same advice: “ascertain the will of your people by any means and join whichever Dominion your people wish to join by 14 August this year.”. . . Had he acceded to Pakistan before 14 August the future Government of India had allowed me to give His Highness an assurance that no objection whatever would be raised by them”’ (pages 57 and 58). – In fact the phrase we used was that we would not regard it as an act of unfriendliness.

The same thing appears in another work, again written by an Englishman who formerly belonged to the British-Indian Army and was on the frontier – and most of you know the views of officers of that time. The book on the whole is not favourable to us.

Lord Birdwood, a British writer on Kashmir, accepted the truth of this position, that is to say that there was no fraud. Mr Korbelt has quoted Lord Birdwood to the effect that if we accept this, then we must refute the Pakistan contention that there was some form of diabolical plot between the Maharaja and the Government of India to stage a situation which would precipitate accession to India. I shall not read out all these documents, because it will prolong the proceedings. I shall, however, read a quotation from Lord Birdwood, which is on page 59 of his book, *Two Nations and Kashmir*: “I stressed that there was no previous plot.”

A document has been circulated containing the joint statement by the Chiefs of the Indian Staff of the Army, Navy and Air Force. This was in August 1947, when the Commander-in-Chief of the Indian Army was General Lockhart, a British officer. The Air Marshal was another British officer, Air Marshal Elmhirst. The Navy was commanded by another British officer, Rear Admiral Hall, who was lent to the Royal Indian Navy, as it then was. All of these people have categorically denied prior arrangements and made the following statement:

“1. The following is a true timetable of events, as regards decisions taken, plans made, orders given and movements started in this matter:

“2. On 24 October the Commander-in-Chief, Indian Army, received information that tribesmen had seized Muzaffarabad. This was the first indication of the raid.

“3. Prior to this date, no plans of any sort for sending Indian forces into Kashmir had been formulated or even considered. On the morning of 25 October we were directed to examine and prepare plans for sending troops to Kashmir by air and road, in case this should be necessary to stop the tribal incursions. This was the first direction which we received on this subject. No steps had been taken, prior to the meeting, to examine or prepare such plans.

“4. On the afternoon of 25 October we sent one staff officer of the Indian Army and one of the Royal Indian Air Force by air to Srinagar. There they saw officers of the Kashmir State Forces. This was the first contact between officers of our Headquarters and officers of the Kashmir State Forces on the subject of sending Indian troops to Kashmir.

“5. On the afternoon of 25 October we also issued orders to an infantry battalion to prepare itself to be flown, at short notice, to Srinagar, in the event of the Government of India deciding to accept the accession of Kashmir and to send help.

“6. On the morning of 26 October the staff officers mentioned in paragraph 4 above returned from Srinagar and reported on their meetings with officers of the Kashmir State Forces.

“7. On the afternoon of 26 October we finalised our plan for the dispatch by air of troops to Kashmir.

“8. At first light on the morning of 27 October with Kashmir’s Instrument of Accession signed, the movement by air of Indian forces to Kashmir began. No plans were made for sending these forces, nor were such plans even considered before 25 October three days after the tribal incursions began.” (*Official Records of the Security Council*, Third year, Nos. 1-15, page 222 and 223)

It is true, as I have said, that we used force. But against whom did we use force? We used force against the invaders – against those who committed rapine and murder. The force on the other side was used against the people of Kashmir, who were being aggressed against and who were being subjected to rapine and plunder and loot and arson. There was force certainly used by the two of us, parties who are now here. But so far as our force was concerned, it was used against the invading people and the other force was used against the population of Kashmir.

It does not require much documentation to understand this position. If the tribal force, which at first numbered 20,000 and then increased to 73,000 according to the estimates, which came into Kashmir over this vast expanse of Pakistan territory, well armed and well equipped for these purposes, were liberators and were friends of the Kashmir people and if they had been wanted by the people,

they would have been welcomed as liberators. The Indian Army was welcome as an army of liberation. These other forces, however, were not so welcomed. They were regarded as enemies. They subjected the population, as I stated the other day, to cruelty. When the country was rid of the bulk of them, the people were happier. It was not a question of our using force or fraud of any kind.

Pakistan Allegation that India Rejected all Proposals

The Foreign Minister of Pakistan stated on 16 January (761st meeting) that eleven proposals had been put forward, each of which Pakistan accepted and each of which India rejected.

It would be an imposition upon the Security Council for me to repeat what I said about this matter the other day (764th meeting). However, since no intelligent appreciation of the present situation can be arrived at except by a study of these matters, I would merely like to say, to save the time of the Council, that the first reference to this matter appears in the statement by the Foreign Minister of Pakistan in document S/PV.761, paragraph 47 to 58 and that the answer made on behalf of India appears in document S/PV.764, paragraph 13 to 76. Therefore, in approximately thirty pages, which must run about 8,000 or 9,000 words, we have examined and refuted and rebutted each of these allegations. There is only one on which it might be claimed that there is a qualified rebuttal, and that is with regard to the issue of arbitration. We spoke at great length on that question, and, so as to save the time of the Council, I refer the Council to annex 36 of the third interim report of the United Nations Commission for India and Pakistan. (*Official Records of the Security Council*, Fourth year, special supplement No. 7, document S/1430, Add.1).

The position was that we were willing to go to arbitration, but we were not willing to let the arbitrator decide on what was going to be arbitrated. That would be a travesty of justice and a denial of all the principles and rules of law. A lawyer, no matter to what system of jurisprudence he belongs, will say that it is not for the judge to decide beforehand what are the issues on which he is going to try the case except within the context of a case that is presented. That, therefore, is what we objected to.

The Government of India has all long, that is, from the beginning of this dispute when my predecessor, Mr Gopalaswami Ayyangar, spoke here and on the last occasion when we met with the United Nations Representative, Mr Graham, always maintained that it does not subscribe to any position which was *ultra vires* of the two resolutions of the Commission. We were prepared to examine any proposal within that ambit. However, it is not for a Commission or a representative to go beyond that and form some new principle. That is why the use of arbitration was declined by us. I believe that a fair examination requires an understanding of the situation.

Militarisation of Occupied Territory by Pakistan

I am happy that, with regard to several of the answers I have given, my friends from Pakistan either has accepted what we have said or does not think it worth while pursuing. The first relates to the massing of troops by the Union of India. It is not possible in our country, even in defence matters, to deal with things in secrecy. There is Parliament, there are questions in Parliament, there are newspapers, there are monies to be provided by budgetary drafts; but on a definite allegation that was made, I replied, on behalf of my Government, of which I have the privilege to be a member, with a categorical denial that there has been any massing of troops or any importation of new troops into Kashmir. Indeed, on the day when we were supposed to be preparing for this adventure, the more important generals of our army, as I said the other day, were playing a polo match in Calcutta. It may be that in some cases generals are not thought to be an essential part of an army, but our army requires them. So that has not been pursued.

My Government asserts – not alleges, but asserts – that in the area under Pakistan occupation, which has illegally, contrary to its own law, contrary to our law, contrary to international law, contrary to the decisions of the Council and contrary to the provisions of the Charter, incorporated in its Dominion, airfields capable of taking military planes have been prepared. I gave measurements of these airstrips obtained from our own information – every Government has its own way of discovering these things – and I said that some of them had runways about 2,000 yards long which had been extended. The answer of my colleague from Pakistan was that I was what I looked – an ignoramus – and therefore did not know what I was talking about. He said that it takes 3,500 yards for an ordinary jet plane to take off. First of all, I was not talking about luxury jet planes; I was speaking of fighter planes. In any case quite recently – and I am sure that the representative of the United Kingdom will not mind my mentioning this – that very beautiful plane, the Comet, arrived at Delhi at our airport there. We have only a 2,100 yards runway, but the Comet landed and took off again. There was no Indian rope trick about it; the Comet just landed and took off again under its own power.

We happen to know what the Pakistan Air Force consists of; we happen to know what runways are required for different purposes, and the strips of 2,000 yards they have there are capable of being used for the fleet of Sabre jets that the Pakistan Government is now possessed of. Therefore, I make this correction for two reasons. First of all, one likes to be in the right when one makes a quotation. Second, the fact does remain that the area occupied by Pakistan is not administered by local authorities such as the United Nations Commission envisaged. Although it is an area where, *de jure*, the rights of defence and external affairs are vested in the Jammu and Kashmir Government and, therefore, in the Union of India, it has become a military outpost of Pakistan.

I shall not labour the point with regard to the distance of Pakistan military concentrations – not necessary against us; but they are normally ones which, when hostilities or the contingency of hostilities arise, become a matter that has to be taken into consideration and my submission in reply to the contradiction of my figures by Mr Firoz Khan Noon is that I am prepared to rely on the ordnance survey maps of India, which are supposed to be very good. In fact, they are borrowed by a great many geography libraries in the world, and I am told that the British Government started them 100 years ago. The distances are indicated in air miles in the majority of cases, and sometimes they are the distances by military roads.

My colleague has argued that all the facts I gave about the improved conditions in Kashmir were no answer for self-government or self-determination for the Kashmir people. As a principle, I could not agree more. It is an old maxim – becoming somewhat worn out in these days of collective States – that good Government is no substitute for self-government. But that is not the issue here. What my Government was submitting was that, after having been hung up by the dilatory procedures which did not bring about the plebiscite, the Government of India having the general responsibility for the economic, social and political development of its people, has introduced the necessary measures, and that certain results had been achieved.

Those things have to be placed side by side with the picture on the other side when we speak of a plebiscite. For example, if on one side there are open assemblies, free discussion, criticism, opposition and, what is more, 70,000 tourists going in from outside, while on the other side there is no such thing and, what is more, even Pakistan itself has had no general elections, then, of course, there are two pictures that are rather different. That is the only purpose of my putting this forward, apart from the fact that, in my submission, the application of the minds of the member States represented in the Security Council to this matter would, as I shall point out later, have to be conditioned largely by the conditions in Southeast Asia, by the fortunes of the people of Kashmir on either side, and by those of the peoples of India and Pakistan. I do not claim to speak for them in the same way that the representative of Pakistan spoke of the necessity of guarding our reputation.

Constituent Assembly in Jammu and Kashmir

There are two other points before I go into the main matter under this particular section. One relates to the Constituent Assembly. That covers not only the speech made by my colleague but also the position taken by the Security Council, and I beg representatives to listen to this very carefully. The Council, at the 765th meeting, passed a resolution (S/3779), and it is thought it was repeating a resolution which it had adopted some time ago. My Government made the same statement that was made by my predecessor Sir Benegal N. Rau from the seat of India at that time. The Constituent Assembly of Kashmir did not establish any

new relations between the Constituent State of Kashmir and the Union of India. It did not create anything. It was what the international lawyer calls a declaratory act rather than a creating act. As I say, it created no new relationship. That relationship had existed for a very long time.

I have said all this before, but there are two facts to which I did not draw the Council's attention. One is that – and here I speak from memory – somewhere about 1949 the Indian National Constituent Assembly decided to reserve four seats for the representatives of the Government of Jammu and Kashmir. Pakistan protested to the Commission that it was an illegal action, an action of our jumping the gun. We were, it was alleged, anticipating what was to be done by the plebiscite. We took the view, however, that we could not under our Constitution or, indeed, under the Declaration of Human Rights, deprive any part of a people of the rights that it enjoyed otherwise. So we went on in that way. Pakistan protested to the Commission, and this is what the Commission said:

“In the Commission's view, it is difficult to oppose this measure of the Indian Government on purely legal grounds. The Commission did not consider there was any useful purpose to be served in approaching the Indian Government on this matter.”

If this had been an illegality the Commission – which had meticulously gone into every point and had been very careful to remind us whenever we even suggested something that it thought was straying from the path – would have told us it was wrong. That was four or five years ago. There were no protests at the time, and therefore the relationship of a Union to a Constituent State was made.

In this connection, may I say with all respect that, in our submission, the Security Council was misled into believing that on 26 January 1957 some act of annexation was going to be carried out. No annexation was contemplated. It could not have been contemplated or carried out, because, as the Prime Minister of Kashmir asked: “How can you annex your own country?” This territory has already been part of India for a long time. I have before me the various dates in the progress of this Constituent Assembly, from 1944 onwards – in other words, long before there was a dispute over the matter. As I have already pointed out, the present phase arose from the proclamation of the Maharaja.

The Prime Minister of India has pointed out in a speech, and I believe has brought to the attention of the United Kingdom Government, that the challenging of the position of the Constituent Assembly was in fact the challenging of an Act of Parliament – I said that myself here, but, of course, my voice does not carry the same weight as that of my Prime Minister. Thus, there was no crisis; no annexation took place; and the Security Council has again been misled. As the Council is aware, it has also been misled with regard to Pakistan's intervention; in fact, it is because of that fact this whole matter has arisen. And this is another

occasion on which the Council has been misled. All that happened on 26 January 1957 was that the Constituent Assembly was dissolved.

I have been asked by my Government to submit the following to the Security Council. Let us assume, for the sake of argument, that the Government of India had undone the processes of the Constituent Assembly and had undone the work which that Assembly had carried out for a period of five years. What would have happened? The entire financial integration of this State with India, the functioning of the Comptroller and Auditor-General of India, would have been thrown out of gear. The authority of the Comptroller and Auditor-General of India in respect to financing applies not only to Kashmir, but to every State in India. Every State in India survives financially by means of subsidies from the Centre; that is our taxation system. The States have certain local rights of taxation, but their main expenditure is covered by subventions from the central revenues. In addition to the financial system, the entire judicial system in Kashmir would have gone to pieces. There would have been no courts, no high court judges; the judges are appointed by the President of India. There would have been no jurisdiction in the Supreme Court, in which is vested the power to enforce the fundamental rights of every citizen of India and from which every citizen can obtain a writ. The customs barriers which had been abolished, thereby contributing so much to the prosperity of Kashmir, would have been reinstituted. In various other respects the State would have been thrown into chaos.

Now, I have not made those observations in order to defend our attitude in this matter. We need no defence, because we have acted constitutionally and in terms of the United Nations Charter; we have not contravened any Security Council resolution. I shall revert to this question later. We only wish, in all humility, to say this to the Council; in adopting the most recent resolution, the Council was taking a decision which, if we had been foolish enough to implement it, would have thrown the area in question and the 3.5 million people who live there into chaos. There are various popular ways of expressing this, but that is what I wish to submit to the Council.

Misleading Quotations

Mr Firoz Khan Noon, in his last statement (766th meeting) to the Council, made a large number of quotations, saying in each case that the quotation either proved his case, refuted something that had been said, or revealed that we had misstated the facts. The Council may remember that, when Mr Romulo, who was then President, was kind enough to ask me to offer my observations, I said that when the extracts that had been cited by the Foreign Minister of Pakistan were fully quoted and placed in their proper context, the picture would be rather different.

One of the quotations which Mr Noon made in this connection was the following:

“In response to the Commission’s proposal of 15 August 1949 providing for withdrawal of the entire Pakistan Army, the Government of India agreed to withdraw a very small number of its forces. According to the Commission: ‘This reduction was considerably less than had been suggested in the Commission’s plan for the three-months period and in no case could be considered to constitute the bulk of the Indian forces.’” (766th meeting, para 19(a))

Now, I should like to read out the entire paragraph of the Commission’s report from which Mr Noon took the above-mentioned extract:

“In response to the Commission’s proposals of 15 April the Indian representative (annex 20) said that the presence of thirty-two battalions of *Azad* Kashmir forces was a factor which the Government of India had to take into account in determining the phasing of its withdrawals. He pointed out that during the seven-weeks period for the withdrawal of Pakistan troops, the Government of India could not, with due regard to the security of the State” – and the Government of India was responsible for the security of the state – “to the maintenance of law and order, and to the sealing off the border against unwarranted infiltration, withdraw more than twelve battalions. (This reduction was considerably less than had been suggested in the Commission’s plan for the three-months period” –the period referred to now is seven weeks – “and in no case could be considered to constitute the bulk of the Indian forces). He wrote that further withdrawals would depend upon and would have to be regulated according to the actual disbandment and disarming of the *Azad* Kashmir forces.”

Thus, Mr Noon’s quotation gave only part of what had actually been said. I have before me a number of similar quotations by Mr Noon, but I shall deal with only one another.

Mr Noon said:

“The Prime Minister of India rejected all proposals for the demilitarisation of the State that were put forward by Sir Owen Dixon, the United Nations Representative for India and Pakistan. In his report to the Security Council dated 15 September 1950 Sir Owen Dixon said:

“‘In the end I became convinced that India’s agreement would never be obtained to demilitarisation in any such form, or to provisions governing the period of the plebiscite of any such character, as would in my opinion permit the plebiscite being conducted in conditions sufficiently guarding against intimidation and other forms of influence and abuse by which the freedom and fairness of the plebiscite might be imperilled.’” (766th meeting, para 19(d))

Standing alone, this is a very stark statement. But the fact is that the whole of the discussion in question took place in the context of Sir Owen Dixon's saying: "If the plebiscite is not the method, we must try and find something else." That was not quoted by Mr Noon, but it is what Sir Owen Dixon was saying. The fact remains that, according to Sir Owen Dixon, under the resolutions, India's agreement to the course to be pursued in these matters is a prior condition to the carrying out of the plebiscite (S/1791, para 98). It is therefore not as if something reasonable and *intra vires* had been put to us and we had rejected it.

I shall refer to only one more quotation because while I said I would not go into any matters of personal insinuations, the Foreign Minister did refer to a part of my statement in which I was supposed to have misquoted him. Had I done so deliberately, it would have been an offence for which I should apologise not only to him, but to the Council and to my Government. This is what Mr Noon said:

"Before I close my remarks I should like to refer very briefly to the incident which occurred at the 763rd meeting when I interrupted Mr Krishna Menon's speech, for which I am very sorry. I was not aware of the practice of the Security Council. But the Council will recall Mr Menon said that I had said in my statement that Pakistan was not bound by any international obligations – and he stopped. I interrupted and said that that was not the whole of my remark, and that he had quoted only half the sentence. I am grateful to Mr Menon for the fact that, upon that interruption, he read the whole remark, which was to the effect that Pakistan is not bound by any international obligations regarding this case, except the two resolutions of the United Nations Commission for India and Pakistan. Thus, he had omitted to read the second part of the sentence: 'except the two resolutions of the United Nations Commission for India and Pakistan.'

"That reminded me of the story of a young Mussulman who was one day chided by his priest in the mosque that he did not say his prayers regularly. The young man said, 'But, Sir, it is written in the Holy Koran that one should not go near prayer.' The priest was astounded, and said, 'Bring me the Holy Koran.' The young man quickly brought the Holy Koran to the priest, and showed him where it is said 'Thou shalt not go near prayer.' But the priest said: 'Why don't you read the other half of the sentence, which says, "when thou art in a condition of drunkenness"?' (766th meeting, para 87)

I will come to that in a moment, but let me just read what I said:

"The Minister for Foreign Affairs of Pakistan said that in regard to this Kashmir matter, he had no other international obligations than those that are to be found in the resolutions. I agree with that, but to a limited extent

in the sense that we have to interpret this agreement in the terms of these two resolutions to which I have referred, but if it means that the international obligations of the Charter of the United Nations are not binding, then I join issue with him. I am prepared to confirm that I subscribe to the view that in the discussion of any procedure, of any particular decision, of any agreement reached, these resolutions are what are binding in the circumstances I have submitted to you. But it would be wrong, so far as we are concerned, for a member State to argue that there are no other international commitments.” – That is a truism. – “The Charter is a commitment for every State, and when the time comes to sum up these observations at the conclusion of these meeting of the Security Council, we shall fall back upon our bounded duty to ask all of you to address yourselves to the provisions of the Charter.” (763rd meeting, para 196)

When the interruption came, Mr Noon said “I am sorry but that is a misinterpretation of my statement.” The President said that he had no right to interrupt, and I continued:

“I will read out the quotation. I thought that by not doing so before I could save time, but it will be seen that my slow procedure is the quickest in the long run. The representative of Pakistan said. . . ” (Ibid., para 199)

I then read out the whole of the paragraph to which he has made very generous reference. Now we come to this quotation from the Holy Koran. The Holy Koran is the scripture for a very considerable part of our population, and it is held in respect by the remainder, and I regret that the quotation from it invited the degree of levity it did. What was the gravamen of the charge? It was stated that I had quoted only a part of the sentence, but let us look at the Holy Koran itself. The representative of Pakistan said:

“The young man said, ‘But, Sir, it is written in the Holy Koran that one should not go near prayer.’ The priest was astounded, and said, ‘Bring me the Holy Koran.’ The young man quickly brought the Holy Koran to the priest, and showed him where it is said ‘Thou shalt not go near prayer.’ But the priest said: ‘Why don’t you read the other half of the sentence, which says, “when thou art in a condition of drunkenness”?’” (766th meeting, para 87)

May I follow the example of this distinguished priest and read the whole of the sentence from the Holy Koran? It states:

“O ye true believers, come not to prayer when ye are drunken” - that is as far as it went in Mr Noon’s citation – but wait till ye can understand what ye utter, nor when ye are polluted, unless ye be travelling on the road, until ye have washed ye.”

Allegation of Discrimination against Muslims

Now I come to the most important part of the statement made. I am not going to refer to the quotations and documents I have before me – I am going to put them all to one side – but I wish to deal with the alleged question of discrimination against the Muslim minority in India. Of course, this minority numbers nearly 50 million. In regard to this minority, various allegations have been made. It has been said there is no civil liberty in India, there are frequent communal riots, and there is discrimination against the people of Muslim faith in regard to our public services. In fact, it is what may be called a captive or police State. I would not have referred to this, but for two reasons.

First of all, it is of some importance, not only to my country but to the world, that we maintain a high level of parliamentary democracy, and to be told before the Security Council that these are the conditions is not so much a slur upon us as it is a disservice to this cause, particularly in our part of the world. In a country where, in the next month an electorate of 193,129,924 people are entitled to vote to elect 494 people to the Lower House of Parliament and 3,102 people to our provincial legislature, using 200,000 polling stations and 2,960,000 ballot boxes for exercising their secret ballot, such a picture of a police State is far from the facts, but it is not so much in defence of our democracy that I raise this, but to point out that the argument was based on the statement that all these people in Kashmir are under our “occupation.”

I was very pained to listen to two aspects of this question. I did not conceal from the Security Council the fact that we have a public security act; indeed, I could not, because it is discussed in Parliament. We hope that when our democracy becomes more established this law will become merely one of those things which do not operate, as it is in the United Kingdom, for example, under the emergency powers. But we have very considerable problems of a social order. We have had a background in our independence and in the aftermath of independence of communal friction. There are various other cases of subversion, but, as I said to the Council the other day (764th meeting, paras 149 and 150), this act is exercised under very strict safeguards. A man has to be told what he has been arrested for, and he can go before a tribunal and make a representation. If the tribunal says that he must be released, then we have to release him. Over and above that, he can invoke the right of *habeas corpus*. But we cannot dictate to the courts that the high power writs such as *mandamus*, *certiorari* or *habeas corpus* should not be given. That is for the court to decide.

But, of course, our friends on the other side have legislation – I hesitate to say similar legislation – or ordinances for this purpose. Far be it from me to say that two wrongs make a right, but I think we must get some sense of proportion on this. Since Pakistan came into existence, imperfect as our information is, 251 political leaders have been arrested or detained without trial. These included Mr

A. K. Fazlul Huq, Governor of East Pakistan; Mr H. S. Suhrawardy, the present Prime Minister; Mr Ataur Rahman, the present Chief Minister of East Pakistan; Mr Khan Sahib, great veteran of the national movement and now Chief Minister of West Pakistan; Mr Khuro, ex-Chief Minister of Sind; Mr Kazi Fazi-ullah, ex-Minister of Sind, etc., - a whole list of Cabinet Ministers or ex-Cabinet Ministers. Then, of course, there is the great veteran Mr Abdul Ghaffar Khan, well known to the world as the "Red Shirt Leader," who had been detained for years without trial in spite of all the representations in friendliness that we made. In addition, dismissal from ministerial office has not been an unusual occurrence.

But in the Pakistan-occupied area of Kashmir, the present President of the '*Azad*' Kashmir Government, Sardar Abdul Qayum Khan, Chaudhury Hamidullah Khan, ex-Minister, Chaudhri Mohammed Akbar Naqqi of Mirpur – all these have been detained. There are number of other cases, including 340 political workers who, according to the Muslim Conference memorandum to the Pakistan Constituent Assembly, were detained after the preliminary disturbances during which a large number of Poonchis were killed. According to the leader of the "*Azad*" Movement at that time, 130 are still in detention without trial.

I have read this out, not with any gusto, not with any pleasure, but it is necessary to see the perspective of the picture, and I confess that in infant democracies a degree of limitation of freedom, academically reprehensible, is sometimes inevitable, but there are considerable safeguards in our case because the law has to be re-passed by Parliament every six months.

But what grieved my delegation most was Pakistan telling the world that in our public services, in our army and our various other public avenues of expression, religion was a bar. That would be unconstitutional and, what is more, under our law, would be punishable by imprisonment.

The Foreign Minister of Pakistan referred to the Public Service examinations. For a considerable time the head of the Public Service Commission in India – corresponding to the Civil Service Commission in the United Kingdom – was a distinguished Muslim. On account of ill-health he resigned. It is quite true, as has been stated, that no Muslim candidate was successful in the Defence Academy examinations for the Air Force held in 1954, and in the United Provinces Civil Service examinations in 1955. I submit that that is only another proof that we do not interfere with these bodies that are placed outside the administration in the interests of the community, even if our intervention is on the side of the angels. We could not go in and say, if a candidate is not according to the standard, that he is either a Muslim or a Hindu or a Brahmin and therefore, he must be taken. The examinations, however, are on a competitive basis under the control of the Public Service Commission concerned, in the case of civil applicants, and under the control of the Union Public Service Commission and the Service Selection Board for entry in the National Defence Academy. A Muslim candidate was selected by the United Provinces Civil Service in 1954.

When we come to the armed forces, the following number of Muslims were commissioned in the armed forces in the last four years – and the number of commissions in each year is very small: in 1953, six; in 1954, eleven; in 1955, three; in 1956, seven. So this does not show discrimination on the grounds of religion. But the most important thing in this matter is this. The results of the National Defence Academy examinations in 1954 have been mentioned and it is pertinent, therefore, to mention that the Commandant of the Academy is Major General Habib Ullah. That is not the name of a high class Brahmin; it is a Muslim name. He is a Major General in the Indian Army and he is the head of the Academy, and there are plenty of Muslims holding comparatively high offices in the Indian Air Force, considering that it is a young air force – we have group captains, wing commanders, squadron leaders, all occupying high offices. The same applies in the Navy.

Reference was made to communal riots, and I think it is important that we should give the facts in connection with this. I believe that the facts given by the Foreign Minister of Pakistan are probably correct. Even if they are not accurate, we are prepared to accept them. There have been communal riots in India. It is to our lasting shame that the passions of our people are inflamed in the name of race and religion. Their guilt of the assassination of the founder of our nation casts its shadow on our history and will do so for a considerable time. We accept this guilt; but the question is whether it is due to the State of our organisation and our administration. The fact is that there have probably been 350 communal riots in India since independence.

What is the position in Pakistan? I am not talking about the whole of Pakistan, but only Eastern Pakistan, where there is a Hindu minority of a considerable size. In 1950 the Prime Ministers of India and Pakistan signed an agreement for the protection of their respective minorities. They decided to help each other and appealed to people on either side. Since that agreement was signed in 1950, there have been 8,021 cases of communal incidents in which the minority community were the victims, and these have been brought to the notice of the East Pakistan Government. As many as 1,762 of these involve offences against women. Members of the minority community have been leaving their hearths and homes and migrating into India after being discriminated against and seriously concerned about their honour and security. The following are the migration figures: in 1955, 239,031 people came from Pakistan to India, leaving their Pakistan homes – and I have the figures here month by month; in 1956, beginning in January, there were 19,206, and in August, 47,065. I have not the figures for the latter part of the year but, since India became independent, 4 million members of the minority community have come over from East Pakistan to seek refuge in India; and we have given them asylum.

I propose, since I do not want to take too much time, to circulate for information an account of this exodus, published in the *Manchester Guardian* which finishes

by saying: “Pakistan is playing with fire. By comparison, Kashmir border incidents are not even flickers.” We regret this. In India we do not make much of this matter because one way to add to communal fury is to give too much publicity to this information. I regret that this has been drawn out of us. We do not say this with any gusto. We take our share of guilt. We say that our country is still not living up to its standards either of non-violence or of respect for other people, religions, races and communities. But the penalties imposed are severe; the vigilance exercised is considerable, and the propaganda for eliminating the cause of the friction is country-wide. Now, this is half of Pakistan – much less than half its area, but more than half its population.

Those are the facts that were put out and on which I thought I should enlighten the Security Council as to how far they are right or how far they are wrong. It may be asked, why should the Government of India take the time of the Security Council in order to deal with matters that are largely the domestic concern either of Pakistan or of India? The reason is very simple. Because the basis of the Pakistan “claim” is that Kashmir is populated by Muslims and for some reason, which is beyond the United Nations Charter, extra-constitutional, extra-legal, by some primordial rights, these people really belong to the other side, irrespective of all legal and other arrangements that are made.

We are proud of the fact – a fact which my colleague described – that we are a secular State. We make no differences between different religions. There are 5 million Roman Catholics in India and we have had no difficulties, and I hope that they have not had any. We have not heard of any. And that is the position. That completes my answer to the statements that have been made.

The Issue Is India’s Complaint of Invasion by Pakistan

The next part of my intervention in this matter is to deal with the situation we have before us. I said the last time that so-called Jammu and Kashmir problem that is before the Council has arisen as a result of a complaint which in substance is of aggression or of invasion, because abetting a crime is the same as a crime of participating in it. You can be an accessory before or after the fact – a description not known to English law but known to other systems. So that was where it began. Two answers have been given and two thoughts are in the minds of the members of the Security Council.

One is what Mr Tsiang referred to the other day (765th meeting, para 66): that the Council decided to bypass the question of aggression. I have been at some difficulty in trying to deal with this matter because we have no desire to enter into controversies with members of the Council. We are invited here to state our case and I hope that I will not say anything that infringes upon your status as members of this august body. But I do not know what “bypass” exactly is intended to mean. Bypassing means not traversing that region. That does not mean that the region does not exist. A bypass is usually a short-cut to your goal. If you cannot get to

that goal because some trees are across the road or because the road has fallen away, then you have to go back to where you started from and go along the normal road. Therefore, even taking this “bypassing,” it does not constitute any kind of non-existence of this fact.

I refer the Council to the various statements that have been made in the following order. First, there was a set of statements at the beginning of this difficulty. Then Mr Gopalaswami Ayyangar, Sheikh Abdullah and others made statements before this Council, and each time a proposal was put forward they entered a caveat and said “our original complaint is this: we do not move away from there; we are prepared to consider other matters.” This process has been repeated in the whole proceedings of the United Nations Commission for India and Pakistan. The sovereignty of the Jammu and Kashmir Government has never been questioned. That is why Pakistan has never been given a place in either the plebiscite organisation or anything of that character, or indeed in the Government of the occupied area, which was supposed to be given to the local authorities. (Although I have the papers here, in view of the time, if you will permit me, I will not read them.) From the very day we brought this complaint and on each subsequent occasion when Sir Benegal Rau, a member of this Council, spoke on this matter several times, we have emphasised this point. That was one of the main difficulties in dealing with General McNaughton, because we thought that the procedures suggested – not adopted, suggested; they were only suggestions – by both General McNaughton and Sir Owen Dixon were *ultra vires* of the resolutions of the United Nations Commission for India and Pakistan, because those resolutions accepted something as basic. And we will come to that in a moment, because I have to deal with it fully according to the instructions of my Government.

Then came the period when we were in negotiations, and proposals of various kinds were made by Sir Owen Dixon, and afterwards, by Mr Graham. I ask the Council to look at the five reports of Mr Graham. In each of these, there is mention of the position we have reaffirmed and they are set forth categorically as our position. We have never withdrawn from the position that the problem before the Commission is one invasion. That arises from the fact that Kashmir is an integral part of India and it became a part of India by law, by the right of protection, and by the desires of the people as far as we could ascertain them. The question was asked of me yesterday, by a very good friend, a person for whom I have a very great regard: If this were so – he used some other words which are not very parliamentary – then why in the world did you suggest a plebiscite?

I want to make this very clear – it is a little bit abstruse probably -: the accession is complete. But it is possible for any sovereign Government to terminate an accession after the accession and the incorporation in law and in fact of the territory acceded. And if you will read the original complaint what does it say? It says that if we are to meet the aggression effectively we would have to invade Pakistan. That is an ordinary elementary problem of military science, I am told – I

am not a military man -, and we said, this is what we do not want to do; we do not want this to develop into an international war between us, which may have other consequences. We warned you to ask Pakistan not to give succour and aid, not to assist the invaders, and so on. Therefore, we came here.

With regard to this whole question of a plebiscite, it was not a plebiscite in the beginning; it was what is called a reference to the people, ascertaining their wishes or something of that character; no particular form was given to it. It arose from our own voluntary statement, originally addressed to the Ruler, an engagement between ourselves, our consciences, and the people of Kashmir. But, at any rate, its relation to accession is this: and discussion, any resolutions, any statements here as our common desire to finally decide this matter by plebiscite is not either in law or in fact or in political argument, in reality or in truth, any admission or any belief founded upon an idea that there is such a thing as temporary accession. The accession, it is true, can be terminated by our sovereign will. It is possible for any sovereign State to cede territory. If, as a result of a plebiscite, the people decided that they did not want to stay in India, then our duty at that time would be to adopt those constitutional procedures which enable us to separate that territory.

That is what is likely to happen in regard to the French possessions in India, where by friendly negotiations, these small territories have been transferred to India *de facto*, under Indian administration. Some day they will be transferred *de jure*. We cannot ignore the constitutional procedures of France. When the time comes, there will be a treaty which cedes in law and then it will no longer be French territory. And here I am not revealing any secret, because it is part of published news, but neither they nor we are rushing this matter because there is no need to do so. It was all done in friendly way. Therefore, when we offered a plebiscite, or rather suggested a plebiscite, we had these things in mind. First of all, we wanted to find ways and means where the spreading of this conflict could be avoided and bloodshed could be done away with. Secondly, we were prepared to accept a test. Now a test does not in any way argue that the union does not exist. But we were prepared to put the union to the test.

A member of Parliament or a Government may be safely in office. They may even have a comfortable majority. They may be challenged in the country on a particular issue. Then they may take it into their heads to go to the country and ask for a mandate. There is no obligation for them to do so. The fact that they appeal to the electorate does not mean that it is an illegal government. It simply means that if the mandate goes against that Government, it ceases to be a government. Therefore, it is wrong to argue that because a plebiscite was suggested this becomes disputed territory – and the word “dispute” occurs in no resolution of the Security Council to which we are parties. I will come to that later.

Therefore, what was possible, if there had been a plebiscite, would have been the termination of that state of affairs. The termination of that state of affairs is not to argue that it did not exist. Those are two widely different propositions, and they go to the root of this matter. If that were not so, then the action of Pakistan would not be the invasion of our sovereign territory. Then the Security Council would have to wonder: what is the Council considering? What was Kashmir? Was it, in the terms of Mr Rajagopalachari, a former Governor-General of India, an elder statesman, a no-man's-land? It could not be because it was among the 562 States that His Majesty's Government in the United Kingdom listed, and with whom His Majesty's Government at that time had friendly treaties. What is more, up to 15 August 1947, the Maharaja of Kashmir, according to the practice from the time of Queen Victoria, presented four Kashmir shawls to the sovereign of Britain. So it was an integral State and, as you will see in this matter all along, there had been great pains to maintain this position. We came here for that reason. This fundamental position has not altered.

It is not as though we were the insurrectionists in 1947. I request the Security Council members to read every assurance, every resolution, even the summaries made by Mr Graham, where the position of India on this matter has been consistently maintained. The Prime Minister himself, who has been dealing with this matter as Minister of External Affairs, has definitely maintained our position right along and not illegally, as you will see when I come to discuss the resolutions.

The second link or charge or rebuttal is: "Yes, you had a complaint of aggression" – this is what Mr Tsiang told us – "and they had a counter-complaint. One cancels the other." I have a great respect for Mr Tsiang's mind and his intelligence. This has nothing to do with our recognition of Nationalist China. Personal relations and regards must continue. I have read practically everything he said on this subject. Much of it is extremely cautious.

My Government would not be prepared to accept this statement or any argument put forward by Mr Noel-Baker –who was my teacher and who I probably know better than anyone else in this room – as an axiom of international law in this matter. Mr Noel-Baker himself denies it, because he starts from one principle or from one objective. He says: "The fighting has to be stopped. Find anything that will stop the fighting." That was the attitude. Secondly, to quote Mr Noel-Baker in this particular way is to quote the counsel for the prosecution. Though we are not the defendants in this matter it would so look. You know our people find it very difficult to accept that. We come here with a complaint of invasion as a complainant, and all along the Security Council in its proceedings puts us into the position of a defendant. We are not prepared to accept that.

Let me return to Mr Tsiang because what he said represents not only his view but either the expressed or unexpressed view of many others. I thought I had

answered him the last time, but my capacity for expression and for conveying ideas seems to be extremely limited.

There was our complaint of invasion. The answer was: "Yes, you had a complaint of invasion. They had a counter-claim, and that counter-claim washes this out." Now anyone who is accustomed to reading documents and who examines this objectively will find that this argument does not bear examination. What did we complain about? We complained about what was virtually the invasion of Kashmir, whatever words we used. And after conciliation efforts on our part failed, we invoked Chapter VI of the Charter. What was Pakistan's reply? It was a long document (S/1100, annex 6) of three sections, the greater part of which had nothing to do with Kashmir. It went so far as to charge us with not having proper economic relations with it, and I suppose that, if the time had been given, perhaps it might have been said even with their survival. So the so-called counter-claim consists of a very large number of other matters.

Let us assume for argument's sake that these other matters might have some value. Apparently the value of the document, so far as the Security Council is concerned, is to be judged by the fact that the Council decided to put it on the shelf. The Council has not considered it since. But whatever that may be, with regard to Kashmir, the only answer is contained in paragraph 3 of the document which I quoted to the Council before (S/1100, annex 6, document 1). It is in the documents. What does it say? We alleged invasion and Sir Muhammad Zafrulla Khan denied it: that is, he has said not that the invasion was right and not that it was not an invasion. The Pakistanis did not say: "We are going to our own territory." They did not say: "We are not going to Indian territory." They did not say: "We have not invaded." The answer was not any of these things, but that they were not there. Therefore, the answer was a denial.

If that denial had been substantiated by facts – not by facts that we adduced but which the Commission adduced, and therefore, the Security Council adduced – then that denial would have value. But the facts are otherwise. Pakistanis were found there. We found them. Our generals went to cocktail parties with them. They were part of the same army. We soon found out they were there. General Tariq, who was Akbar Khan of the Army, had taken off his shoulder straps and had become the leader of the commandos. Of course they denied that there were an army. At any rate, later it was admitted. What is more, at earlier stages of the invasion starting from 10 October, during the period of Major General Scott's dairy and later up to October and November, Pakistan was guilty of invasion of our country. It committed the crime of depredation upon the sovereign territory of India, of a neighbour which was trying very hard to live on good terms with it, a neighbour which, for the price of our common independence, had admitted to the sundering of our territory. I will come to our relations in the future.

Therefore, the answer to the complaint, I say, with respect to Mr Tsiang, is not a counter-claim that washes out the matter. It is not a plus and a minus. It is a

denial. If that denial is disproved by the Security Council, what is the desideratum? The aggression, nothing else. Pakistan's case was not "we have a right to go there," but "we did not go there."

An argument was adduced by the Foreign Minister of Pakistan at this stage in the Council on grounds, I am sorry to say, that will not stand examination. What did he say? He said that the Government of India, not only by accepting accession but by sending troops to Kashmir – about which I read General Lockhart and Air Marshal Elmhirst's story – committed aggression. Why? Because the Maharaja of Kashmir had made a standstill agreement with Pakistan and the standstill agreement, according to Pakistan, is a kind of semi-accession which gave it sovereignty. But unfortunately for the Pakistan argument, Sir Muhammad Zafrulla Khan, speaking before the Security Council, said that this standstill agreement was in regard to communications and post offices and what not, and he did not say that it included the rights of defence and external affairs. But assuming it did, it was the Maharaja who concluded the standstill agreement; the Maharaja offered the same standstill agreement to two countries. What is more, what the Maharaja can give he can take away in those circumstances – not the conditions of accession. And Pakistan, having violated that standstill agreement, and the Maharaja having asked another country to come to his defence against Pakistan-aided marauders in his country – the standstill agreement was dead. First, even if there was a standstill agreement, that would give no right to sovereignty; accession is a superior document, it is a major right; it is a higher level of right which kills the lower one. Secondly, the standstill agreement has been violated by the actions of Mr Jinnah's administration – then Governor-General – and the supreme authority in Pakistan whereby these people were being sort of starved into submission by being denied salt, oil and food, and what is more by the 73,000 Pathan raiders being collected with the invitation to loot the territory.

For all those reasons the standstill agreement which was supposed to be a panacea to prevent bleeding, to prevent the breaking of communications, etc. – that has gone to pieces. Therefore, I submit what remains is aggression – the action of Pakistan as Sir Owen Dixon has said. You may say "why do you quote Sir Owen Dixon when he is for you and why don't you quote him when he is against you?" I gave you the reasons.

The only time that we have not been able to agree with Sir Owen Dixon, and the disagreements are not as bad as it has been pointed out, was when Sir Owen Dixon departed from his mandate from the Security Council and tried to create a new situation. We have suffered enough by exploratory discussion *pro tem* – not considering positions – but to be told afterwards that we committed ourselves to exploratory proposals. Then, Sir Owen Dixon tried to put into Kashmir an administration in place of the Jammu and Kashmir Government which, as you will see in the resolutions of the United Nations Commission, was the only authority. What is more, the Commission said nobody had the right to change the

status juris or any other status in regard to this matter. It is only then that we disagreed with Sir Owen Dixon. What is more, Sir Owen Dixon was trying to find other methods of compartmental plebiscites – of partitions – of various other ways of settling this matter. But where Sir Owen Dixon's opinion is of value is that Sir Owen Dixon is a jurist. He has now the Chief Justice of Australia – and they do not make chief justices of people who do not understand either municipal or international law; and that is not a presumption – in this case he is well known. What did Sir Owen Dixon say? He said that Pakistan – I quoted the paragraph to you before so I will summarise it – when Pakistan entered the Kashmir territory it committed an offence against international law – that is to say, there was a breach of our sovereignty – and that was aggression. And therefore we cannot, whatever happens, we cannot in obedience to the Charter, out of request for you gentlemen who represent the authority of the United Nations – not in your persons, not even in your countries but by the mandate that rests on you – we shall not at any time surrender the right to defend the moral right, the legal right, the political right and the military right of a country to defend its own sovereignty.

Kashmir is an integral part of India. It could cease to be so only by an act of volition by the Government of India. Therefore, when we came here that was the position. And in our desire to find settlements we were prepared to consider various propositions. But at no time was the sovereignty of the Jammu and Kashmir Government ever abandoned or permitted to be abandoned, or any phraseology used in any of the documents that permitted it. And if the Council, as it is likely to be, is overwhelmed with a large volume of this material, it would be interesting if one could find any document of the Security Council, of any authority of the United Nations, which did not reaffirm this position. We have taken pains to see that that is not departed from. That was the position even in the last meeting of Mr Graham. We came here, and what did we agree to? We agreed to what is common ground between Pakistan and ourselves. We agreed on the one hand, to what is our position in this matter, namely, that we believe every position is subject to negotiation, however difficult; every proposition is subject to conciliation methods even if the rights of one party are beyond question. Therefore, we were prepared to discuss these matters. I can understand the legitimate feeling of satisfaction in the minds of the Security Council members when they said that here was a question on which the two parties were agreeing on a method. But let us read the phraseology of it. The Security Council records that both parties have expressed a desire to settle this matter in this way; but that does not mean that there has been no invasion, that does not mean there is no sovereignty, that does not mean there was no accession. I might be the owner of a house, but it may be that for many reasons I may prefer to give it up if certain conditions happen.

So we came here and the proceedings started. Now at this stage we would like to make it quite clear that it is not the contention of the Government of India that the Security Council could be a sort of Rip Van Winkle and forget the nine years that have passed. It cannot forget them in terms of its own resolutions: not can it forget

them in terms of subsequent events. So we are not saying, “forget all this and go back as though nothing had happened.” That is not our position. The issue before this Council is the question of aggression in order to put an end to the aggression, according to the principles of the Charter. When that is liquidated, one method or another method may be tried. The invasion and its consequences – its consequences to the people of Kashmir and, in our humble submission, more particularly to the people of Kashmir in these unfortunate areas that are occupied by a Government that has no free elections, where economic conditions are such that the people are in a very bad way – are exemplified by the statement of the leaders of the “*Azad*” movement in their Memorandum to the Constituent Assembly (S/PV.762/Add.1, annex 3, sect. 1) that they cannot appoint even a peon, meaning a messenger or a porter of some kind. They have no such powers at all. The aggression concerns them, it concerns us, it concerns what is called the sub-continent. I believe it concerns the whole area that lies in the lap of the Indian Ocean, and it may concern the world. That is why this Kashmir question is so important. That is why we are prepared to go on trying, and we have kept on trying.

Question of Plebiscite

Sir Firoz Khan Noon reminded me that I could not just rub out all that has happened since the last meeting of the Security Council in 1952. I have made no such attempt. Therefore, it comes to this question: the gravamen of the charge, particularly if you read the press of the United Kingdom, is that my country, which is in the closest fraternal relations with the United Kingdom, which has a great regard for its traditions and its powers even when it was ruling us, is about to or has committed an act of international brigandage; that we are about to commit or have committed violations against our international obligations. And I say most solemnly, not only on behalf of my delegation in this meeting but on behalf of my Government and my people, that we have no intention and we shall at no time violate an international obligation. If we do, we deserve to stand convicted. But the Security Council has an equal responsibility to see that these are international obligations, to examine their content. Therefore, let me take the first step. The issue is said to be the plebiscite – that is what we are talking about – that is before the Security Council. In fact that is not the real issue, because we are now talking in a vacuum. As the Commission said, situations change but resolutions remain unchanged. If I had said that, members of the Security Council would tell me privately that I was being aggressive. I am temperamentally not aggressive, as everybody knows. It is the Commission that said: “Situations change; resolutions do not change.”

Now let us take this question of plebiscite. I submit that the origin and the family tree of this plebiscite arose from our desire not to take this territory of Kashmir, originally ruled by a rather wrong kind of Maharaja with whom we joined issue, where there was a considerable popular movement, where our national leaders were threatened; and we wanted to settle that. Then Lord Mountbatten wrote to

the Maharaja. This letter is not part of the instrument of accession, as in I told you at a previous meeting (763rd meeting, para 105 and 106). The instrument of accession is complete with the offer and the acceptance. This was a letter that went separately. Therefore, it is an expression of a wish.

That is one aspect of the plebiscite question, but the Foreign Minister of Pakistan, as he is entitled to do, has referred to various solutions of the problem. Here I want to submit certain propositions of international behaviour, which apply equally to municipal behaviour. If an offer is made and it is rejected, that offer is no longer alive. If an offer is made and it is accepted, it becomes an engagement. It would be impossible to function in any other way, since there would be so many commitments floating in the air.

It is quite true that Lord Mountbatten did ask Mr Jinnah, the Governor-General, "Why not arrange this by a plebiscite and do it through the United Nations, and this, that and the other?" His answer was not an acceptance but a counter-offer: "Let us two govern this country. Let us suppress the raiders"; and this, that and the other. We rejected that. So that phase of it was over. There were so many other phases of it. The Foreign Minister read out the text of a document which was authentic as far as it went, but looks different if you read the whole context. It was a telegram from Pandit Jawaharlal Nehru to Mr Liaquat Ali Khan, the Prime Minister of Pakistan, in which he said: "This is an offer we make to the people of Kashmir, to Pakistan and to the world." We do not deny this. But Pakistan did not accept it at that time. What is more, not only did it not accept it by words; it did not accept it by conduct, because the other side of the offer was that there should be a withdrawal of the aggression, that there should be a stopping of force and violence and hatred and things of that kind.

So we come to the date of 22 December 1947. I would refer to the letter of 22 December 1947 from my Prime Minister to the then Prime Minister of Pakistan. I do not propose to read the whole of it but I beg the members of the Security Council to read the whole of it because it was written by my Prime Minister from the anguish of his heart when all the suffering was going on in our country, with the knowledge that only a few days previously this man had been his own Finance Minister, and in a country that only a few days previously had been part of our common homeland. All the paragraphs hang together, but I do not wish to shelter myself under that. However, on 22 December we terminated this position. It is common knowledge that even a treaty can be denounced; much more so an engagement; and even more so an offer. So on 22 December my Prime Minister said this:

"Since protests have failed to bear fruit, the Government of India now formally ask the Government of Pakistan to deny to the raiders . . ." – then are set out, under numbers 1, 2 and 3, access, military supplies and other kinds of assistance. - "The Government of India have always desired and still earnestly desire to live on terms of friendship with Pakistan." - That is

the only subsisting engagement that, in spite of everything that happens, will subsist in our hearts. – “It is their sincere hope that the request that we have now formally made will be acceded to promptly . . .”

Therefore, this is in the nature not of an ultimatum but of termination of the previous relationship. That is what happens between countries. They say, “If you do not do this, we will do something else.”

“Failing such a response, they will be compelled to take such action, consistent with the provisions of the United Nations Charter, as they may consider necessary to protect their interests and to discharge their obligation to the Government and the people of Kashmir.”

I submit that this letter would entitle the Government of India, in accordance with international law and practice and the observance of the Charter of the United Nations, to take any step, including the invasion of Pakistan, for the defence of that territory. Therefore, on 22 December we concluded that that chapter was ended, the chapter dealing with what Lord Mountbatten said and what Campbell-Johnson said and what someone else said and what Mr Jinnah said: “I will call the whole thing off?, or whatever it was. All that was over. We came to a new chapter, and that chapter is the complaint before the Security Council.

Government of India Stands by its International Commitments

I have dealt with the complaint as best I can, and I have said that the only answer has been a denial. That denial has been subsequently disproved, and therefore the complaint exists. It arises from this, that any engagements by which the Government of India is bound are only the engagements to which it is a party since that period, apart from the general obligations under international law. I want to repeat that. Apart from the general obligations under the Charter, the only specific engagements are the engagements arising from the reference to the Security Council, and I ask you to bear with me on an examination of this.

A number of resolutions have been passed by the Security Council, and none of these are resolutions of a character which may be called that of international engagements except the two to which my distinguished colleague has referred. The remainder are by way of adjuration and, to the extent that they are under Chapter VI of the Charter, they are not binding upon the people concerned. They are by way of recommendation.

What is the obligatory nature of actions taken under Chapter VI of the Charter? This goes back to San Francisco. In San Francisco this matter was discussed at great length, and the United States took a very prominent part. The Belgian delegation at that time wanted to place this matter beyond doubt and therefore moved amendments to these provisions. The Conference, however, agreed that an important stage had been reached with Article 37. This article states that the

Security Council may take up disputes where the parties have failed to reach a settlement by the other means indicated. It goes on to state:

“If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.”

The Council may recommend terms of settlement, but it does not have the power to compel the parties to accept the terms. It has the power to enforce its decisions only after it is determined under the provisions of Chapter VII that a threat to the peace exists.

I would not have brought this up but for the fact that my distinguished colleague, not only in this forum but before his countrymen and mine, has said that we were defying the decisions of the Security Council. The only decisions the Security Council can make are decisions under Chapter VII. If you will refer to the “Report to the President of the United States” on the result of the San Francisco Conference from the Chairman of the United States delegation, the Secretary of State at that time – I think it was Mr Stettinius – on 26 June 1945 (It is a United States document) you will find that on pages 85 and 86 the legal position is clearly set out as regards the nature of the recommendations and the position of the Security Council in terms of the Charter.

Therefore, recommendations are of that character. And if it is said that the Council has passed this resolution and that it has that moral force, the Government of India will go out of its way to pay every attention to it. But when, as in the case of the resolution of 21 April 1948 (S/726), it is not possible for us to accept it, the position is rather different.

We therefore come to the international engagement – with the observation that my Government stands by every international commitment it has made. There is no member of the United Nations to which we yield in our desire to carry out the spirit and the letter of the Charter. But we are not to be placed in the position where the attempts that we make for exploration, or to find ways and means, without arguing every question at every time are turned against us. Even on this occasion, some people have wondered why my Government has instructed me that the whole of the case should be put at the first meeting, as far as possible – and I crave the indulgence of everyone for repeating this, because, when we have not, we have suffered in the bargain.

The only international engagements that exist are two resolutions: the resolutions of the Commission dated 13 August 1948 (S/1100, para 75) and 5 January 1949 (S/1196, para 15). My delegation has arranged for copies of these, which are official documents, to be in front of you for ready reference, since these are the key documents on which the honour of my country is challenged and the position

of India in relation to the Charter has to be examined. What is more, I say with all the seriousness and the gravity of which I am capable that, when member Governments give consideration to this, these matters have to be taken into account. These are the engagements. If they were of a formal character, they might be treaties, but at any rate, they are the engagements we have entered into – the resolutions of 13 August 1948 and 5 January 1949.

The resolution of 5 January 1949 is of a supplementary and subsidiary character. (At the 766th meeting the representative of Pakistan asked why I call it “subsidiary.” I looked up the Oxford dictionary, and I found that “supplementary” and “subsidiary” mean much the same thing. “Subsidiary” means “serving to assist” or being “auxiliary.” “Supplementary” means “added to supply deficiencies, especially a fuller treatment of a special subject.”) The document of 5 January 1949 has no independent existence; it has to be fitted into the framework of the first document.

Resolution of 13 August 1948 Violated by Pakistan

I have been asked by my Government to invite the Security Council to examine these documents, because it is on the basis of these that the Council, when the time comes, will have to see how this question stands, what the obligations are, what further steps can be taken or not taken, and what will be the consequences. I therefore crave the indulgence of the Council and ask representatives to refer to these documents, which we have placed before them for purposes of reference. These resolutions, particularly the resolution of 13 August 1948 are the results of laborious negotiation. Every word is a matter of give and take and has taken perhaps a whole conference. We accepted this resolution of 13 August 1948; Pakistan rejected it, in the first instance. We accepted the resolution of 5 January 1949 on 23 December 1948; Pakistan accepted it on 25 December 1948. Our acceptance was prior. With regard to the resolution of 13 August 1948, the Government of Pakistan made so many conditions in regard to its acceptance that the Commission said that those conditions really altered the character of the whole thing.

I invite the Council to examine the official document as it appears in paragraph 132 of document S/1430 (*Official Records of the Security Council*, Fourth Year, Special supplement No. 7). This is in the Third interim Report of the United Nations Commission for India and Pakistan. At the risk of taxing the patience of the Council, it is my duty, which my Government has instructed me to perform, to deal with every word of this in so far as pertinent.

The first sentence reads:

“The United Nations Commission for India and Pakistan,

“Having given careful consideration to the points of view expressed by the representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir...”

I invite attention to the words “regarding the situation.” It does not speak of a “dispute” here, but of a “situation” – this is what we accepted – “regarding the situation” caused by the invasion by Pakistan. Invasion of what? Not of no-man’s-land, not of a divided territory – but of the State of Jammu and Kashmir – which is an assertion of the whole of its entity. These are the key words in the first paragraph. First of all, we are dealing with a “situation,” as my predecessor submitted to this Council. We are engaged in no territorial dispute; we are making a complaint of a “situation” in the State of Jammu and Kashmir. Therefore, there are not two States, there are not two authorities, and, as you will see later on, this Government is sovereign.

The next paragraph reads: *“Being of the opinion that the prompt cessation of hostilities...”* Those words are key to the state of mind of the Security Council and the parties at that time – “the prompt cessation of hostilities” – because we brought the complaint here in order to prevent the fire from spreading. And, from our point of view, it was telling the Security Council that we would be forced into a position which we did not want to take. The next point reads: “and the correction of conditions the continuance of which is likely to endanger international peace and security...” That is the remedy sought. Those conditions are the invasion by the other side. It then goes on: “... to assist the Governments of India and Pakistan...” There is no reference here to any other authority – to “Azad” Kashmir or anybody else. It speaks of assisting the “Governments of India and Pakistan,” who are the two combatant High Commands. Here it is not a question of two States. It would be two people engaged in a conflict, as we will see later when the agreement is signed – the two High Commands “... to assist the Government of India and Pakistan in effecting a final settlement of the situation.” That is the second paragraph.

There is nothing in the next paragraph, because it simply says that the proposal will be submitted simultaneously to the Governments of India and Pakistan. Although it was submitted simultaneously, it was accepted by us and rejected by them. That is the preamble.

The pattern of the body of the resolution is that it is in three parts, and each part has sub-parts. The first part consists of five paragraphs: A, B, C, D, and E. I invite the Council’s attention to them.

Part I is headed “Cease-fire order” and paragraph A reads: “The Governments of India and Pakistan...” There is no recognition here of the “Azad” Government, insurgent forces or anything else. When the Commission went to Karachi, Sir Muhammad Zafrulla Khan, who was then Foreign Minister, informed the

Commission that the Pakistan Army was there. We all knew it – but only then was it admitted. Paragraph A reads:

“The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon...”

There is nothing controversial in that.

Then we come to paragraph B, a very important paragraph on which the present situation so much turns and we submit with a great degree of sadness that the Security Council has not hitherto given it sufficient attention. Our Prime Minister has expressed this fully in many places and we must say it again. Paragraph B reads as follows:

“The High Commands of the Indian and Pakistan forces agree to refrain from taking any measure that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.” – It is our submission today that not only has Pakistan not carried out part II of the agreement but it has also violated the cease-fire agreement, and we propose to prove this. – “(For the purpose of these proposals forces under their control shall be considered” – and the next phrase is very important – “to include all forces, organised and unorganised, fighting or participating in hostilities on their respective sides.)”

Now this is the kind of definition that you find is consonant, for example, with the description in the Geneva Conventions. Here it is: There is an undertaking by the two High Commands that they will refrain from taking any measures that might augment the military potential; and we contend that ever since the conclusion of these two agreements Pakistan has consistently, repeatedly, continuously and without interruptions violated paragraph B of the cease-fire order. I thought this would be the best place for me to elaborate, but my advisers tell me that it is better for me to deal with the resolution first and to come back to this argument afterwards.

Paragraph C reads:

“The Commanders-in-Chief of the forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.”

Paragraph D reads:

“In its discretion and as the Commission may find practicable, the Commission will appoint military observers who, under the authority of

the Commission and with the co-operation of both Commands, will supervise the observance of the cease-fire order.”

Nothing turns on this paragraph. Military observers have been appointed and they constantly report; and as I mentioned the other day, if there was any concentration of Indian troops, the military observers would have reported to the Secretary-General.

Now we come to a key paragraph in part I, that is, paragraph E: “The Government of India and the Government of Pakistan agree to appeal to their respective peoples...” – the first was a negative action of desisting from doing something, but here we have agreed to appeal to our respective peoples – “to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.” As this argument develops you will find a statement by the Government of India: that the one condition that is necessary for the settlement of this problem, or even for negotiation, is an improved atmosphere. It is impossible to negotiate effectively, to come to an agreement in the context of a campaign of war propaganda that goes on against us and a programme of religious hatred. We will at no time agree to a State being founded on a religious foundation. We want our people to be religious, to have freedom of religion and freedom of worship, but this is a matter between them and their conscience, or the Supreme Being, or whatever you call it. We are not prepared to consider secular matters on any other basis. Paragraph E states:

“The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of future negotiations.”

It is our submission that from that day – and I will read some of the propaganda – since the Security Council passed the resolution, it is for the Security Council to consider what relation the stepping-up of the propaganda has to the resolution passed. It is not for me to say, because I am invited here under Article 32 of the Charter to state my case. We say that paragraph E stands violated. So far as the cease-fire order is concerned, paragraph B and E of part I stand violated. I will tell the Security Council what the effect of that violation is on the so-called international engagement.

Now we come to part II. This is a truce agreement, and the first paragraph reads as follows:

“Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their representatives and the Commission.”

Let us look at section A of the truce agreement. The first part of section A is a key paragraph to which so little attention has been paid in the years that have passed:

“1. As the presence of troops of Pakistan in the territory of State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from the State.”

What is the significance of this? First of all, as I said there is something you cannot deny. But Pakistan denies that there are troops there and, even taking the date in May – which we do not accept in fact – it was six months afterwards when the Security Council found out – when they went to Karachi and not before – that the troops of Pakistan had entered.

Therefore, two things emerge: first, that a material change has taken place in the situation since we came here, because the Security Council was informed to the contrary. I submit, without desiring to use any strong words, that this was the first instance, the basic instance, in which the Security Council was kept in the dark and the facts were concealed from it. Although they were first concealed from us, we came to know about them and that is the reason for all the emotional letters from the heart written by my Prime Minister to the other Prime Minister. Now a material change is the introduction of the Pakistan Army to a country which it had previously said it had not entered.

Now the Commission says this constitutes a material change. This is a key factor in the whole situation and unless it is taken into account this problem cannot be understood. What has the Pakistan Government to do? “. . . the Government of Pakistan agrees to withdraw its troops from the State.” I would like you to listen to those words. In paragraph 1 of section A of part II what is agreed to is an unconditional withdrawal by Pakistan of its Army from the State of Jammu and Kashmir. So all this palaver afterwards about synchronisations and about a balance of forces and so on is not what is intended by this clause. The duty of withdrawal was unconditional and therefore no part of this agreement can even be considered until Pakistan has ended the aggression. And if I may submit – and we as a member State are entitled to submit under the terms of the Charter – the duty of the Security Council in terms of the Charter is to put an end to this aggression. It is laid down that “Pakistan agrees to withdraw its troops from the State.”

Now let us look at paragraph 2 of section A, which reads:

“The Government of Pakistan” – that is the first step, there will be more – “will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.”

Paragraph 2 has not been carried out and it continues not to be carried out and that action is one of the subsisting problems of the situation, as you will see when we go into detail.

Paragraph 3 reads:

“Pending a final solution, the territory evacuated” – this is again a very important part – “by the Pakistan troops” – that is to say, the territory that they are now occupying, as I told you when I spoke about the Constituent Assembly and as I shall point out later on, that territory was supposed to be evacuated by them altogether. They had to go away: they were invaders, they have no right there. The only people who could stay were the local authorities – “will be administered by the local authorities under the surveillance of the Commission.”

Paragraph 3 therefore makes it clear beyond all doubt that the State of Pakistan had no business whatsoever in the territory of Jammu and Kashmir and that the duty which they failed to discharge was to remove themselves fully and completely. It is no answer for the Foreign Minister of Pakistan to turn round and ask me, “What is it that he wants the Security Council to do? To serve Kashmir on a platter to him and India?” (766th meeting, para 18).

We come now to section B, paragraph 1, which reads as follows: “When” – and the word “when” in English means just what it says – “the Commission shall have notified” – that is to say, the following action must be after the notification – “the Government of India” – not the Government of Pakistan, because the Government of India is the sovereign authority in this matter – “that the tribesmen and Pakistan nationals referred to in part II, A, 2 hereof withdrawn” – (I invite the attention of the Council to the word “when” – nothing can happen until this event takes place. The Commission has to notify about what? That the tribesmen have withdrawn from the present occupied territory, that they have completely evacuated).

“When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A, 2 hereof have withdrawn, thereby terminating the situation” – the situation which was being complained of – “which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir” – that is to say, the Commission has to report that they have withdrawn, thereby terminating the situation which made the presence of our troops in Kashmir necessary. Until that situation is terminated nothing can happen – “and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from the State in stages to be agreed upon with the Commission.”

Some of the things which the Council has heard are in violation of this clause. When the Commission notifies us that the tribesmen and Pakistan nationals have been withdrawn, then we are to begin to withdraw the bulk of our forces, and the stages of that have to be agreed upon with the Commission. It has nothing to do with Pakistan; it is with the Commission. We informed the Commission that we would tell the Commission in confidence about our troops movement, but that we were not prepared to tell Pakistan about them. Pakistan insisted that it should be told, and that is one of the reasons why the negotiations broke down.

Section B, paragraph 2 reads as follows:

“Pending the acceptance of the conditions for a final settlement of the situation” – and I again invite the attention of the Council to the word “situation” – “in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire those forces of its Army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.”

Here we have one of the most difficult clauses in the sense that its meaning has not been fully appreciated by the Security Council in later considerations. Now what does this paragraph state? “Pending the acceptance of the conditions...” – while the situation remains, the forces of the Indian Army, with the agreement of the Commission, will be maintained as necessary to assist the local authorities. Now the key words are “local authorities.” “Local authorities” is a phrase which is applied only to administration in the Pakistan-occupied area; in the other parts it is the Government of Jammu and Kashmir. According to this, therefore, the Indian Army is to assist, in the maintenance of law and order, the local authorities on what is the so-called “Azad” side. Therefore, at this stage there was no question of anything but stopping the aggression. This will become clear if the Security Council will read the document dated 20 August 1948, which is a letter from the Prime Minister to the Commission about the Commission’s assurances (S/1100, para 78). I should like to ask whether the Security Council would say that assurances given on behalf of the Commission to the Head of a Government, assurances which are public knowledge and which are published, do not have the same value as all the engagements.

Therefore, paragraph 2 gives the Government of India the right and the duty to assist in the maintenance of law and order. When the Chairman was asked what was meant by law and order and what about the external defence of the State of Jammu and Kashmir, he stated that the two could not be separated. The position, therefore, was the one which Mr Gopalaswami Ayyangar put to this Council: the Pakistan forces’ withdrawal and the occupation of the external frontiers of Kashmir by the Indian Army. That was the position at that time.

When we raise these questions people think we are splitting hairs. Might I digress for a moment to state that if this case was being argued before a legal tribunal it would probably take three or four weeks' time. However, the members of the Council are so busy that we have to go through this quickly.

The term "local authorities" is used throughout the whole of these documents only as applied to the authorities that are not *de jure*. Paragraph 2 places upon the Government of India both the duty and the right to look after law and order in the occupied area. In the light of that clause, I ask whether the whole stand of the Pakistan Government is justified. Not at all.

Section B, paragraph 3 reads as follows:

"The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within its powers to make it publicly known that peace, law and order will be safeguarded and all human and political rights will be guaranteed."

This we have done, and we did it not only at that time – it is in that spirit that the Constitution came into being. Before that time there was no Constitution and there was no popular Government. What is more, very soon afterwards the dynasty was displaced and the son of the old Maharaja, who was an autocratic ruler, became elected Head of State. We proceeded in pursuance of part II, section B of the resolution.

We come now to section C, which has filled many minds but which is not necessarily the key part of the picture. Section C, paragraph 1, reads as follows:

"Upon signature, the full text of the truce agreement or a *communiqué* containing the principles thereof as agreed upon... will be made public."

I am sorry to say that this opportunity has not arisen because no truce agreement has been signed. Part I has been violated in two main sections. The cease-fire agreement has been violated and part II has not been implemented. Every necessary condition has been breached.

This takes us now to part III, which refers to the plebiscite, and which reads as follows:

"The Government of India and the Government of Pakistan reaffirm their wish" – it does say "their pledge" – that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end . . ."

First, as I have said, it is an affirmation of our common wish. Secondly, it states that it should be determined in accordance with the will of the people. However,

this wish concerning the future status of the State of Jammu and Kashmir in part III is not concerned with the present status. The present status is a status under accession. This concerns only the future status. A distinction must be made between an accession as *pro tem* and an accession to be terminated in the transpiration of another event. Those are two different matters, both in law and in fact and in all the political implications of this question. Then follows that very nice English expression “upon acceptance”; “upon acceptance” means after acceptance; it not only denotes a sequence, but a sequence of a particular character:

“upon acceptance of the truce Government” – then what is to be done? After it is accepted – “both Governments agree to enter into consultations with the Commission.” – It does not say “both the Governments go and take a plebiscite” but “both Governments agree to enter into consultations with the Commission,” and for what purpose? – “to determine fair and equitable conditions whereby such free expression will be assured.”

When I develop this point the Council will, I hope, be convinced not only that there have never been these fair conditions but that under conditions of psychological warfare and the threats uttered even in this Council, and the massing of personnel on the other side and all the conditions which I shall refer to, these fair and equitable conditions cannot be assured. There can be no question of an election – certainly not under our Constitution. And when I say “our Constitution” I want to make this further observation, because you gentlemen here, representing other States, can have only a friendly interest in our Constitution. It is only we who owe allegiance to it. My friends from the United Kingdom and Australia may have more than a friendly interest in it, because it has family resemblances, and we have a debt of gratitude and sense of heritage in that respect. But these particular provisions reflect the cannons of international behaviour. They are not just municipal laws. They are municipal law which corresponds to international conduct.

That is part III, and I will deal with it in detail later. It is part III, therefore, that refers to ascertaining the will of the people. The two Governments are to confer about fair and equitable conditions after part II and part I have been implemented – after the signature of the truce agreements.

Now what is the present position? Part I is violated. This is not an old violation; it stands continually violated. The present position is one of violation. Therefore the Pakistan Government is, in this respect, in a state of sin. It was original sin, but it is continuous so far as part I is concerned, and part II has not taken place. And the Council heard what Sir Owen Dixon said – that apart from all other considerations under the resolutions, none of these things could take place without the agreement of the Government of India.

Before I go to the resolution of 5 January 1949, I want to repeat what I said a while ago. It is not as though the Government of India is now trying to read meaning into these words. It is not what the lawyer called “the construction of a document” – some old lady writes a will; there is a contest about it; clever lawyers try to read as much as they can into it. That is not the position. This document has taken a great deal of brain work. It has meant so much coming and going; so much saying “yes” and “no”; so much breakdown, and so on and so forth. Each word has been put in there deliberately. Not only has the document to be read in its obvious and legal meaning – that is to say, there is a construction of all documents according to law – but it has to be read against the background of all the circumstances. The Security Council, in spite of the fact that its members are heavily engaged, cannot ignore the background conditions which are recorded in so many volumes. These are far too serious matters for it to be said, “There was talk of a plebiscite; well, if we have not a plebiscite, then this, that and the other.” Therefore, the whole of this thing had to be read.

Resolution of 5 January 1949

That brings me to the resolution of 5 January 1949. Pakistan refused to accept the resolution of 13 August 1948. At that time the position which was stated by Sir Muhammad Zafrulla Khan was that this was for the purpose of a cease-fire, and that there should be no cease-fire until there were political settlements. He was holding it up in order to obtain other conditions. Then I believe the Pakistan Army suffered severe reverses. I am asked to quote to you what the Prime Minister said in Allahabad:

“We stopped a victorious army. We could have settled conclusions. We were stronger at that time, and God forbid, if our country were invaded we should still render a good account of ourselves. In obedience to the Charter we restrained the action of our military forces. Instead of obtaining what we could have obtained by the use of force we continued to negotiate, having accepted it.”

The Commission returned to Paris, had further talks with the Pakistan Government – and the military situation had probably some effect on the matter, as a matter of opinion – and on 11 December it elaborated further proposals, partly to meet the Pakistan position that there must be some talk about what was likely to happen after the truce, what was the nature of things, and so on and so forth. Therefore, the Commission spent its time in working out a plan which could be useful if we ever came to part III.

The resolution of 5 January 1949, which covers so many pages, has, from India’s point of view, an adverse psychological effect upon those who read it. There are paragraphs about a plebiscite, but none of it is worth the paper it is written on unless part I and part II of the 13 August 1948 resolution are agreed upon and, in the case of part III, we confer and agree on fair terms. Therefore, the whole of the

resolution of 5 January, which I shall read to the Council in a moment, cannot be read, either as to its individual paragraphs or as to its entirety, except in this context. And it is common ground that these two resolutions stand together, because it says “supplementary.” It is supplementary and subsidiary, because it adds to the other. It enables the other to function if the occasion came.

What does it say? Paragraph 1 says:

“The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic methods of a free and impartial plebiscite.”

Paragraph 2 says:

“A plebiscite will be held when it shall be found by the Commission” – and I ask all of you who are scholars of English to tell me what this means. “When it shall be found by the Commission,” in plain English, is a condition precedent. If it is not found by the Commission, then, no plebiscite – “that the cease-fire and truce agreement set forth in part I and II of the Commission’s resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed.”

We can leave aside the second part because arrangements for the plebiscite did not follow. So it is only if parts I and II are completed, and I invite the Council’s attention to the number of times mention is made, in paragraph after paragraph of this question of the condition precedent, of the sequence, of something happening after something else. And then again it is an investigation; it is the applying of minds to a plan in order to find fair means of doing this. That is paragraph 2. As I said, neither part I nor part II has been completed.

Then we come to paragraph 3(a), which says:

“The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed” – and this again is a very important sentence – “to office by the Government of Jammu and Kashmir.”

Why? Because the Government of Jammu and Kashmir is a sovereign Government. It alone has authority over the territory. And this is what Sir Owen Dixon – as he was entitled to do in his mediatory function, although he was *ultra vires* of this agreement – tried to shift: “He will be formally appointed to office by the Government of Jammu and Kashmir.” It was perhaps this sentence in the resolution – namely, that the Plebiscite Administrator “will be formally appointed

to office by the Government of Jammu and Kashmir” – that Mr Menzies had in mind; he did not see any reason at all why the Government should be displaced.

Paragraph 3(b) of the resolution states:

“The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organising and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.”

Nothing can be nearer to the classical definition of sovereignty than this phrase “shall derive from the State of Jammu and Kashmir the power...” Under the general, classical definition, the sovereign is the person from whom all powers flow. I do not say that there can be no modifications of that definition, but I do say that it is the classical definition.

Paragraph 3 (c) reads:

“The Plebiscite administrator shall have authority to appoint such staff of assistants and observers as he may require.”

This is an administrative provision.

Paragraph 4 (a) states:

“After implementation of parts I and II of the Commission’s resolution of 13 August 1948” – and here, again, we find the words “after implementation” it is not I who am repeating these phrases; it is the resolution itself which, time and again, uses such words as “when it shall be found,” and so forth – “and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation” – with whom? – “with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.”

In this connection, I should like to make one observation on the use of this word “disposal.” As members of the Council know, the word “disposal” has been used with regard to the Government of India forces in the sense of disposition, not in the sense of throwing away.

Paragraph 4(a) of the resolution, therefore, also contains the kind of phrase to which I have been referring – namely “when... peaceful conditions have been restored in the State.” Now, these peaceful conditions have not been restored, because part of the country is under occupation. There is neither law nor order nor Assembly nor Constitution in that part of the country. Furthermore, the phrase in

paragraph 4 (a) of the resolution to the effect that the Plebiscite Administrator will determine “in consultation with the Government of India” the final disposal of Indian and State armed forces, again establishes the fact that Pakistan has no part whatsoever with regard to these matters. Pakistan will be the beneficiary if the plebiscite goes a certain way. Under the arrangements to be made by the Plebiscite administrator, Pakistan will not be concerned in such matters as watching, witnessing, supervising, and so forth – but we have not come to that stage.

The resolution then goes on to set down some administrative provisions, which I shall not deal with in detail.

The next important paragraph in the resolution is paragraph 7; in fact, from our point of view it has very great importance. I am sure that everyone who is concerned with freedom of elections will wish to pay attention to this paragraph. It reads:

“All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that:

“(a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite;

“(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom... of travel in the State, including freedom of lawful entry and exit...”

The importance of paragraph 7(b) is that it contains the assurance that there shall be no religious propaganda; that is to say, there shall be no incidents similar to the one in the North-West Frontier, where a *mullah* sat down, showed the Koran, and said, “Every vote that you cast against Pakistan is a vote against the Koran.” Of course, in a sense that was true because Pakistan is an Islamic State, and its Constitution is based upon the Koran. But that does not mean that the paragraph of the resolution which I have just quoted does not preclude religious propaganda in Kashmir.

Perhaps this would be a good time to deal with this matter of religion influencing elections. I invite the representatives’ attention to the Indian publication, *Manual of Election Law*, which they may find in the library of the United Nations. This is not a manual which we have devised for the purpose of dealing with Kashmir. Although it is a municipal document it conforms to the general practices and standards of election throughout the world. In this manual, we read that the following actions are prohibited in connection with any election in India:

“... undue influence – that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person with the connivance of the candidate or his agent, with the free exercise of any electoral right...”

It is also stated that there shall be no inducement of, or attempt to induce, an elector to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or spiritual censure. It is also stated that there shall be no:

“systematic appeal to vote or refrain from voting on the grounds of caste, race, community or religion” or “appeals to religious and national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of a candidate’s election.”

I freely admit that the law of India is not binding on the rest of the world. But I do say that what I have just quoted represents the canons of justice. Furthermore, this is not only what we have understood in our private, subjective minds, but is also part of the assurances given in the Commission’s resolution.

I may be asked: How do you know that this is going to happen? But I shall come to that when I deal with the circumstances existing at the present time. I would only say now that, when religious passions are inflamed, this leads to unrest and to an inability to exercise the franchise freely – and, in such circumstances, there cannot be a plebiscite.

I should now like to quote from an *aide-memoire* which was accepted by the Commission. This *aide-memoire* gives an account of a meeting between Mr Lozano, the Chairman of the Commission, and the Prime Minister of India. In it, we read the following comment by the Prime Minister on paragraph 7(b) of the Commission’s resolution of 5 January 1949.

“India is a secular State; the United Nations is also a secular organisation. Pakistan aims at being a theocratic State. An appeal to religious fanaticism could not be regarded as legitimate political activity. Mr Lozano agreed that any political activity which might tend to disturb law and order could not be regarded as legitimate. The same test would apply to freedom of Press and of speech.” (S/1196, *annex 4, aide memoire 1*, para 4)

That is not a private note recorded by the Prime Minister; it is an agreed summary of the conversations.

Assurances Given by the UN Commission

I will read out what is contained in annex V of document S/PV.762/Add. I. I hope the members of the Security Council will read this document at their leisure,

although it is a long document, because it contains all the assurances given, and these are legal matters, they are matters which have the force of the solemn authority of the United Nations behind them. Annex V states:

“This note sets out the following assurances given by the United Nations Commission for India and Pakistan to India before India’s acceptance of the resolutions of 13 August 1948 (S/1100, para 75) and 5 January 1949 (S/1196, para 15):

“(1) Responsibility for the security of the State rests with India.” – That is a sovereign right. The defence of our external frontiers is India’s responsibility and, therefore, there is no question of the relations between the Constituent State and Union or any impairment of accession, so far as the present is concerned, whatever may happen in the future.

“(2) The sovereignty of Jammu and Kashmir Government over the entire territory of the State shall not be brought into question.” – Please mark these words. It is very carefully stated that the sovereignty of Jammu and Kashmir Government – so there can be no argument afterwards that it is another sovereign State – “over the entire territory of the State shall not be brought into question.”

“(3) Plebiscite proposals shall not be binding upon India if Pakistan does not implement parts I and II of the resolution of 13 August 1948.

“(4) There shall be no recognition of the so called ‘Azad’ Kashmir Government.

“(5) The territory occupied by Pakistan shall not be consolidated.” – Now it is a part of Pakistan, according to the Constitution of Pakistan.

“(6) Reversion of the administration of the evacuated areas in the north to the Government of Jammu and Kashmir and its defence to the Government of India, and maintenance of garrisons for preventing the incursion of tribesmen and to guard the main trade routes.”- I ask any member of the Security Council: what does this mean? That India is to maintain garrisons to guard the trade routes which lie on the external frontiers of Kashmir. The cease-fire line, as the Commission has said, is not a political boundary. The whole of the State remains.

“(7) ‘Azad’ Kashmir forces shall be disbanded and disarmed.” – The phrase actually was “large-scale disbandment and disarmament” – and the Commission said if you disband them, then you must disarm them.

“(8) Exclusion of Pakistan from all affairs of Jammu and Kashmir.”

The note which constitutes section A of annex V begins as follows:

“At the meeting of members of the Commission with the Prime Minister of India in New Delhi on 17 August 1948” – three or four days after signature – “the Prime Minister, with reference to part II, section B, paragraph 2 of the 13 August 1948 resolution, stated:

‘ . . . that it would be necessary for India to retain troops in Kashmir for defensive purposes as well as for the maintenance of law and order. Recalling that the same issue had been raised in the Security Council he said that the Government of India must have sufficient troops to protect the territory against external attack. Mr Korbel [the Chairman of the Commission] commented that in his understanding the phrase “law and order” could be interpreted to include maintenance of adequate defence inasmuch as that was essential to law and order.’”

Then follows the letter of 20 August 1948 from the Prime Minister of India, which the Commission said was in consonance with and a fair interpretation of its views.

It may be asked whether these assurances were made by way of a secret instrument, whether the Commission was just trying to state something which was capable of two interpretations, with a view to getting some settlement and hoping that things would work out. If that were so, the position would be rather awkward for the Commission, and its work would not have recorded the progress it did. But in fact, these assurances were published and they were known to Pakistan before it accepted the resolution of 5 January 1949. I submit that whether one takes a political view or a common sense view – I am not saying that the two are in contradistinction – or whether one takes a legal view or an equitable view, when a party signs an instrument with the knowledge of certain facts, then the commitments it undertakes are conditioned by and must have reference to those facts. Therefore, so far as India is concerned, these two resolutions and the obligations that go with them are our international obligations.

I have not been able, in the time there was to work out each of these in detail, but I will go over them again rapidly. First of all, as I said, the cease-fire agreement was violated by the accumulation of arms and the training, at that time of thirty-five battalions, now forty-five battalions of the “Azad” Kashmir force, which is not a toy army, but which is as good as the Pakistan Army. Its personnel came out of the former British Indian Army which acquitted itself with great valour in North Africa, in Italy and in various other parts during the war. This force consists in the main of ex-servicemen and their descendants. In addition, there are large numbers of irregulars trained in guerrilla warfare, with about 600 or so in training at one time, and after training they are thrown back into the community. I refer to the Air Force and the military gun emplacements, and this is the state of affairs so

far as part I, that is, the cease-fire is concerned. It is for the Security Council to consider whether any step that we have taken was in breach of the first condition, which is the maintenance of the cease-fire. The Government of India has not violated this cease-fire agreement. We have not introduced into Kashmir any more troops or any more equipment than we had at the time of the signing of the agreement. In fact, we have withdrawn large numbers and we have many less people there, since, as the whole world knows, the size of the Indian Army has been reduced and it also has other responsibilities, particularly in the way of assisting in agriculture and economic development. Therefore, we ask the Security Council to look at this problem. Have we been in default? That is not sufficient, because we are not on the defence, the default is on the other side, and what is more, it is a default that goes to the root of the agreement. Just as in every contract, a breach of an ordinary superficial condition does not very much matter, it is usually known as a breach of warranty. But a breach of a condition is something that changes the character of the contract and if it goes to the root of the agreement, then the whole of the agreement is violated.

The only thing that today remains in which we have made our contribution is that the cease-fire line is maintained, the authority of observers is respected, and I have given the solemn undertaking of the Government of India, that, irrespective of our legal rights, irrespective of our rights under the Charter, and irrespective of our desire to put an end to the aggression and to see an end of this business, the Government of India will not move one soldier, one gun, or fire a shot which will violate the cease-fire agreement but at the same time, it is our bounden duty to protect our territory, and the Security Council, in our submission, has a solemn obligation to take into account the phrases that were uttered by the Foreign Minister of Pakistan in regard to what can happen. We do not live a terror or in fear, but at the same time we, as a Government with our responsibility to the United Nations, have an obligation to remain under conditions of prudence.

Reports of Mr Graham

Nine years have passed since then. Mr Graham's reports are before the Council. On account of there being no time, we have not been able to go into them in the Council, but they set out the two different points of view in their relation to the findings of the United Nations Commission for India and Pakistan. The whole of Mr Graham's activities have been concerned with this one problem of demilitarisation. Those who read the newspaper reports at that time were likely to be misled into the facile impression that, out of twelve points, ten or so were accepted; the others were not. One can mention a number of points, but the key point is point 7, and that was not accepted. It could not be accepted because it violated the sovereignty of the Jammu and Kashmir Government. As Prime Minister Nehru said yesterday: "We agreed to concur in a plebiscite, but the Pakistan Army promised to go." It is still there – and I am not saying this: The Foreign Minister of Pakistan told us on the first day: "We are prepared to withdraw." That means that the Pakistan Army is there; and this is nine years

after. And I say that this withdrawal should be a unilateral action under this agreement.

So far as we are concerned, it is our duty – even though we are not remiss – to answer briefly to the allegations of breaches and defaults. The first breach alleged against us is the Constituent Assembly. About this I have spoken so much, and I believe that when the documents of the Constituent Assembly are read, when its functions are understood, members of the Security Council – the majority, if not all of whom belong to countries and systems which want to see the functioning of bodies of this kind – will appreciate the fact that this has been concerned with the economic and the constitutional developments of that part of the area. It does not decide something against accession, but even if it did, that would not be binding on the Government of India. It would be *ultra vires* of the Government of India Act. I fully concede that the Government of India could cede any territory as indeed any other Government could.

Then the Foreign Minister of Pakistan stated and implied so many times – and newspapers do the same – and when one has no information it is easy to come to very quick conclusions – that the Government of India delayed these matters. I invite representatives to read the proceedings of the discussions with Mr Graham and others who have tried to establish a programme of demilitarisation. How many concessions have we made? How many agreements of a provisional character have we made in private conversations? It goes further than all that, but I want to say here and now that they are no longer operative because they have not been accepted. They were provisional proposals put forward for this purpose.

That takes us to the present position. And I want to submit to the Council that it is not a question of the mathematics of 21,000 and 6,000. So long as there are the violations which I have complained of, so long as there is a campaign of hatred, wherever there is a slogan, it is my duty to point out that it ends – as in the case of Roman emperors, who said “Carthage must be destroyed” – with “India must be conquered.” Representatives on the Council cannot expect us to submit to this without exercising our rights of survival. I am going to refer to this in a moment. The present position is that nine years have passed.

Doctrine of Rebus Sic Stantibus

The Foreign Minister of Pakistan twitted me on the *rebus sic stantibus* doctrine (766th meeting, para 44). I may say I enjoyed it. I have not the slightest objection to arguing the doctrine of *conventio omnis intelligitur rebus sic stantibus* but I do not know how the Security Council can take upon itself the powers of a tribunal. That is why I did not want to quote legal doctrine but unless I am mistaken – and I have done some research on this – the Foreign Minister of Pakistan was in error in informing this Council that it had turned down this doctrine. The Security Council cannot turn down this doctrine; it is a doctrine of international law that goes back

to the days of the glossators. It can no more turn down the doctrine of *rebus sic stantibus* than it can turn down the fundamental basis of law.

And here we have the best authority, and perhaps the best people to look into this – and I hope other nationals will not mind – are the British and Americans because they have had a longer period of experience in the conclusion of treaties, and getting out of them and having to modify them and so on. A large volume of law has been developed. I am free to concede to Sir Pierson Dixon that, according to his system, you can still put a man in prison or lock him up on a Sunday, or something of the kind. That is because the conditions have not changed in that regard. But so far as international law is concerned, the distinguished English Judge, Sir Arnold McNair, whose independence has been placed beyond doubt by his giving judgement against his own country in the Anglo-Iranian Oil Co. case in the International Court of justice, said:

“... It is reasonable that circumstances should arise in connection with treaties (as they do in the sphere of private contracts) in which it is necessary to imply a term or condition. That is to say it is clear that, if the parties when negotiating had adverted to some contingency,... they would have agreed to provide for it in a particular way, it is reasonable to impute to them an intention to contract on the basis of such a provision and to imply it as a term or condition in the treaty.” (*The Law of Treaties*, 1938, page 233)

I shall come back to more conclusive statement from Sir Arnold McNair. I will now quote another authority, Mr [William Edward] Hall, who has written as follows:

“Neither party to a contract can make its binding effect dependent at his own will upon conditions other than those contemplated at the moment when the contract was entered into, and on the other hand a contract ceases to be binding so soon as anything which formed an implied condition of its obligatory force at the time of its conclusion is essentially altered.” (*A Treatise on International Law*, 1895, 4th ed., page 367)

The United Kingdom regards the cessation of, or a vital change in the specific *raison d’être* of, a treaty as a ground for recognising *ipso facto* the termination of a treaty. The principle applies to a change which destroys the very object of a treaty stipulation: *cessante ratione cessat lex*.

As an illustration of the applicability of this doctrine, reference may be made to a proclamation issued by President Roosevelt on 9 August 1941, which announced that certain treaties had become suspended and inoperative. He said:

“Whereas the conditions envisaged by the convention have been, for the time being, almost wholly destroyed and the partial and imperfect

enforcement of the convention can operate only to prejudice the victims of aggression,” – that is what we are – “whom it is the avowed purpose of the United States of America to aid;” – and that phrase “to aid” is a statement in which my country believes – “and Whereas it is an implicit condition to the binding effect of the convention that those conditions envisaged by it should continue without such material change as has in fact occurred...”

The circumstances were part of the consideration of the contract, assuming that there was one. It was because of those circumstances that the promise was made and that the disappearance of those circumstances, which were the foundation of the promise rendered the promise ineffective.

These are modern authorities. President Roosevelt was a modern person in this connection, and so is Sir Arnold McNair. But Oppenheim is the classic authority. He wrote the following:

“Vital changes of circumstances may be of such a kind as to justify a party in demanding to be released from the obligations of a treaty which cannot be abrogated by unilateral notice. Many writers defend the principle *conventio omnis intelligitur rebus sic stantibus*, and assert that all the treaties are concluded under the tacit condition *rebus sic stantibus*. In substance – although it has on occasion been abused by providing a cloak for lawless violations of treaties – the doctrine *rebus sic stantibus*, when kept within proper limits, embodies a general principle of law as expressed in the doctrines of frustration, or supervening impossibility of performance, or the like. It is in this sense – and in this sense only – that every treaty implies a condition that, if by an unforeseen change of circumstances an obligation provided for in the treaty should imperil the existence or vital development of one of the parties,” – I repeat the words, “should imperil the existence or vital development of one of the parties” – it should have a right to demand to be released from the obligation concerned. Thus conceived, the doctrine *rebus sic stantibus*, when treated as a legal doctrine, embodies the same principles which the law of various countries has admitted as a ground for dissolution or discharge of unenforceability of a contract owing to a vital change of circumstances.” (*International Law – A Treatise*, 8th ed., 1955, Vol. I, pages 939 and 940)

I am not relying on this doctrine, because I am not going to use this doctrine. My Government does not accept the view that the Security Council is called upon to take over the functions of the International Court of justice, but the substance of it is important politically. There was some suggestion that I have avoided even mentioning this because there is something wrong about it. Now *rebus sic stantibus* is a very respectable and ancient doctrine. But of course it is the law; it is one of those outstanding instances where the law is conditioned by fact. What the International Court of Justice has said is that the doctrine still holds, but it could not be applied to the case before it. The Permanent Court of International

Justice, particularly in the case of free zones of Upper Savoy and the district of Gex, said this years ago. I cannot find any evidence in the proceedings of the Security Council – and I shall be prepared to withdraw this statement if I were shown it – where the Council has turned down the doctrine as a doctrine. I can see no evidence of it. If it did, then with great respect, it would be acting beyond its own powers, because it is not a law-making body. You have to go to the International Law Commission. That is so far as this is concerned.

May I now try to deal with people who are not lawyers. One is a very dear friend of my country, and that is the former Prime Minister of the United Kingdom, Sir Anthony Eden. I hope I am not starting any difficulties in regard to the sides taken in other controversies. The four Foreign Ministers, Mr Bidault, Mr John Foster Dulles, Mr Molotov, and Mr Eden were at the Conference held in Berlin in January and February of 1954, and the question of the treatment of Germany arose. It is neither my purpose nor my business to go into the merits of that question. I have only to deal with what is the effect of an agreement in certain circumstances, whether the whole of it ever suggests, and in all this, on the basis that there was an agreement – I have been at pains to point out the nature of that agreement, and I do not want anything that I say to be stated here afterwards as that in 1957 the representative of India said there was an agreement. I have to be extremely careful in view of the previous history. Here is what Sir Anthony Eden said. This is with reference to the Potsdam Agreement, where the Russians were insisting that on account of the Potsdam Agreement, the European Community, and various other things, were not possible, and there was this clause and the other clause. This is what Sir Anthony Eden said on 1 February 1954:

“We are all pledged to give the German people the opportunity to reconstruct their lives on a free and democratic basis, so that they take their place among the peaceful peoples of the world. This principle was embodied in the Potsdam Agreement, and referred to by Mr Molotov on January 25. We all have a duty to uphold it.” – It is not as though they were just scraps of paper. – “But that does not mean that all the provisions of the Potsdam Agreement are applicable today. The Soviet Delegation itself has said that some of them have been overtaken by events.” – This overtaking of events is a political issue. – “It is indeed clearly stated in the Agreement itself that it is intended to cover the treatment of Germany in the initial control period.” (*Documents relating to the meeting of Foreign Ministers of France, the United Kingdom, the Soviet Union and the United States of America, Berlin, 25 January to 18 February 1954, 1954, page 50*)

That is again another matter to be taken into account. If all this argument, all these resolutions and everything else were in terms of the cease-fire, hoping that they will be terminated quickly, then you get a different picture after nine years. Supposing this goes on for ninety years, are we still in this business? Then there is the following sentence of what Sir Anthony Eden said: “We have to look at the

facts as they are today, and not as they were nine years ago.” – The nine years is a coincidence.

If I quote Sir Anthony Eden, who is not a lawyer, distinguished as he is, I may perhaps be regarded as quoting lay authority on a subject on which I have just now quoted a Latin doctrine. Therefore, we come to John Foster Dulles, who in the days of less political involvement, was a distinguished political lawyer. And once a lawyer always a lawyer. This is what Mr Dulles said on behalf of the United States of America, as Secretary of State, on 26 January – it says 26 January; I did not put down this date:

“These decisions of Yalta, which my own Government shared, were understandable in the context of the day. The German war was still in full vigour and wars are not won by a spirit of tolerance.” – We should have learned that. - “But it is said that today, nine years since the German armistice, one of the parties to the Yalta Conference should attempt to revive the bitterness and hatred of those days and the cruel decision which that hatred and bitterness occasioned.” (Ibid., page 16)

The implication of it is that when conditions change – in this case the whole position is reversed – a new position is created.

Now we come to Mr Bidault who said the following:

“The Peace Treaty must be of such a nature as not only to provide a suitable conclusion to the war, but to avoid sowing the seeds of new conflict.” – This is one of those things which in the case of Kashmir the distinguished members of the Security Council may well bear in mind. – “In my own view there are two fundamental considerations. The peace must not be a vengeful peace or an imposed peace. It must look to the future and not only to the past. It would be irrelevant to insist on too close an interpretation of the Potsdam Agreement, in the drafting of which France, as a matter of fact, had no part.” (Ibid., page 3)

France as a matter of fact had no part in it, so it subscribed to it afterwards. So its action is something after the fact.

Now we come to Mr Molotov. Mr Molotov said the following on 1 February 1954, the same day as Mr Eden spoke:

“According to these agreements the Soviet Union, the United States of America and the United Kingdom would act together in helping the German people rebuild their State on democratic and peace-loving principles. In due time France associated herself with these decisions, although Mr Bidault now and then tries to avoid discussion of these agreed

decisions. I suggest, however, that these agreements are no less necessary to France than, let us say, to the Soviet Union.” (Ibid., page 53)

That is the statement on the other side. But then Mr Molotov goes on to say:

“We acknowledge that many points of the Potsdam Agreements have become outdated.” (Ibid.)

That statement, apart from any political views one way or another, has very considerable force.

For purposes of reference, these quotations are from United Kingdom documents issued by Her Majesty’s Stationery Office, relating to the Meeting of Foreign Ministers of France, the United Kingdom, the Soviet Union, and the United States of America, held in Berlin 25 January to 18 February 1954, Command Paper 9080.

These principles may all be regarded as universal, and it may well be argued, do they apply to the particular instance? We come to the United Nations Commission for India and Pakistan. What does the Commission say? It says:

“In essence, the problem of the withdrawal” – that is, part II of the 13 August 1948 agreement – “lies in the fact that sequence for the demilitarisation of the State, as contained in the Commission’s resolutions of 13 August 1946 and 5 January 1949 is not adequate to solve the present situation. The situation in the state has changed; the resolutions remain unchanged.” – That is what happened to the last resolution the Security Council passed. – “Again in this question, the Commission endeavoured to find means of reaching an agreement without contravening the terms of the resolution; but taking into account the changes that have occurred in the situation,” – that is what the Commission is saying: “taking into account the changes that have occurred in the situation” – “it found that the Governments were strict in adhering to the letter of those clauses which met their position.” (*Official Records of the Security Council*, Fourth year, special supplement No. 7, document S/1430, para 249)

The Commission says in the same report, in another paragraph:

“Over a prolonged period, in a changing and dynamic situation” - and this is particularly true of the part of Kashmir which is still under the administration of Jammu and Kashmir – “and restricted by long-standing related clarifications which proved to be a real impediment to reaching agreement, the framework of the resolution of 13 August has become inadequate in the light of the factual conditions in the State. The Commission has been unable therefore to mediate much beyond what is today a rather outmoded pattern.” (Ibid., para 283)

There are other instances for which you and I are responsible. One was the question of Trieste. Here was an agreement that something had to be done in a particular way. Something else was done and the Security Council did not regard that as a breach of its resolutions. The Italian Peace Treaty provided for the establishment of the Free Territory of Trieste. The statute of Trieste conferred upon the Security Council certain functions and responsibilities in respect of administration of the territory, including the appointment of the Governor in consultation with Yugoslavia. At its 91st meeting on 10 January 1947, the Security Council adopted a resolution formally accepting the responsibilities devolving upon it under the relevant treaty document. Here is an acceptance by the Security Council that makes it a party, a point to which my Government wants to come back. The Council, however, failed to agree on a candidate to be appointed as Governor and the military administration of the area continued. On 5 October 1954, the representatives of Italy, the United Kingdom, the United States and Yugoslavia agreed on certain arrangements concerning the future of the Territory different from those provided in the Peace Treaty, and the people seemed to have been comparatively happy. That is the history of Trieste.

There is another instance to which I want to refer. I do not have the time to go into its history but all the members, particularly the great powers, will recall the discussions in Dumbarton Oaks, San Francisco, London and other places on the founding of the United Nations when it was definitely laid down that any State that was a creation of Nazi power could not be a member of the United Nations. That was the basis on which the United Nations was founded. On 9 February 1946 the General Assembly passed a resolution, India voted for it. Paragraph 1 of the resolution 32(I) of the Assembly stated:

“1. *The General Assembly* recalls that the San Francisco Conference adopted a resolution according to which paragraph 2 of Article 4 of Chapter II of the United Nations Charter ‘cannot apply to the States whose regimes have been installed with the help of armed forces of countries which have fought against the United Nations so long as these regimes are in power.’”

This was a resolution barring forever the administration of Spain from the United Nations. Last year, by unanimous vote, we admitted Spain. Why? Because conditions had changed. The same rulers were in power and the conditions of origin had not been changed by history. But the conditions of the world had changed.

History of Plebiscites

I want now to deal with plebiscites for a moment – plebiscites in regard to general agreements. I would like to invite the attention of the Council to the history of plebiscites. There were large numbers of plebiscites which had been initially

agreed upon, many of which were never carried out. The Covenant of the League of Nations, which was drafted in much great detail and probably with greater reference to some of these matters, contains the law and the practice of the time. Article 19 concerns the reconsideration of treaties which have become inapplicable.

Certain plebiscites were required to be held by treaties of peace. After the First World War, the method of plebiscite was used in a number of cases, and wherever those plebiscites could be held in a reasonably short time, they took place. There are five instances; in Schleswig in 1920, as recorded in part III of the Treaty of Versailles; the plebiscite of Allenstein and Marienwerder in 1920, also under the Treaty of Versailles; the plebiscite of Klagensfurt Basin and Upper Silesia in 1921; and in Sopron in 1921.

These were plebiscites that were actually held in pursuance of international decisions that were taken. But each one of them was a plebiscite that became effective soon after the decision. But when we come to other plebiscites the situation is rather different. There was an attempt to take a plebiscite in Teschen, Spisz and Oraba in 1920. That was in pursuance of a decision of the League of Nations Council of September 1919. There was a proposal for a plebiscite in Vilna in 1921. There was the plebiscite of Tacna and Arica provided in the Treaty of Peace between Chile and Peru.

Now, what happened to them? In the Vilna case, the conclusion with regard to the attempted plebiscite shows that when there were delays in carrying out the plebiscites, "the inevitable consequences of these delays is to make it impossible for the Council" - the League of Nations Council - "to adhere to its plan of a speedy Popular Consultation as originally contemplated." The Council "has therefore been compelled to consider whether the parties interested really and sincerely desire a Popular Consultation and if it would not be possible to devise some more simple and effective procedure." The result was direct negotiations. (League of Nations, *Minutes of the Twelfth Session of the Council*, annex 163b, page 101)

Then we come to Teschen in 1920. This is an instance of plebiscite which has some relation to the present circumstances. When tension increases and racial hatreds flare up, it is not considered opportune to hold a plebiscite. (See Sarah Wambaugh, *Plebiscites Since the World War*, 1933, vol. I, page 156)

Then there is the classic instance of Alsace Lorraine:

"To hold a plebiscite now, the French maintained, would be to sanction the wrong done in 1871 by admitting the lawfulness of that act of violence." (Ibid., page 17)

It almost looks prophetic in these words.

The best authority on plebiscite is [Johannes] Mattern. He says:

“The plebiscite can render effective service only when and where such binding agreements, free from all force, have been reached in advance by the parties involved to the effect that a majority of a fixed and agreed proportion shall prevail, and when the plebiscite is employed solely to establish which side of the issue involved can muster this majority and where the resulting minority is assured of a fair degree of local autonomy and the enjoyment of its own language and religion.

“No state can, at the present time, from the point of view of constitutional law recognise the right of secession founded upon the principle of self-determination. By doing so it would invite its own destruction...” (*The Employment of the Plebiscite in the Determination of Sovereignty*, 1920, pages 202 and 203)

I did not write that.

Breaches by Pakistan

I shall now deal with breaches on the other side. I am afraid I have arranged my time so badly that I will have to rush through this. Therefore I shall only itemise them. If we come back again I shall go into the details.

The first of the breaches on the part of Pakistan is withholding information from the United Nations that it was a combatant and that it was a party to the invasion, and allowing the United Nations to proceed under Chapter VI of the Charter, thinking an entirely different set of circumstances existed. In regard to this, there are a number of observations by the United Nations Commission, to which I made reference in my previous statement before the Council.

The next is with regard to non-withdrawal. By withdrawal is meant the removal of striking capacity in that area. It is not merely to put your foot on the other side of the frontier. Withdrawal of an army is the withdrawal of the striking capacity. Not only has the Pakistan Army not withdrawn, but the changed conditions in view of the imbalance of forces created by rearmament are such that withdrawal has become practically impossible.

I have already referred to the violations of the cease-fire agreement – the training of the “Azad” Kashmir irregulars, the importation of arms and the building of airfields for the taking off of fighterjet planes. But the most important part, from a constitutional point of view, of this violation – and my Government with great respect expresses its surprise that the Security Council has not given it attention – is the integration of the territory.

Now, I have in the last two or two hours and a half, analysed the documents paragraph by paragraph and have shown that Pakistan has no *locus standi* in this area at all, and that the only way Pakistan came there was by force and by violation of every moral law, of every political law, of every international cannon of behaviour. Therefore it had no right whatsoever to incorporate the territory. The Council took a very strong view in regard to the Constituent Assembly, which had done nothing of this kind, which is only proceeding in pursuance of a legal action. But what is on the other side?

The distinguished Foreign Minister of Pakistan asked at the last meeting: "Why has the Government of India become suddenly exercised over Chitral?" The reason is very simple. The Pakistan Constitution was adopted only very recently. And it was only when that constitutional act was passed that we raised this constitutional point. Article 1, clause (2), sub-clause (b)...

The President: I am sorry I have to interrupt for a moment, just to ask how much time the representative of India will need to conclude his statement.

Mr Krishna Menon: Sir, I am doing my best; if I spoke any faster nobody would understand me. On the other hand, the Security Council appreciates that the Press of the United Kingdom, the United States, France and other countries is poorly informed about the situation. The Security Council passed a resolution at its 765th meeting without taking into account some of these matters. My Government has the duty to lay these facts and record them before you. We proceed on the basis that no member State would take any step in these matters without considering what are all its implications – what is past, what is present and what is ahead. That is why I am quite prepared to stop and do it tomorrow if that is the will of the Council. But I am quite prepared to go on. I have been conditioned to finish today.

The President: My only reason for asking the representative of India is that we have to find out how we are going to proceed. I would like to know if possible what the total time would be, because if it is very long we would have to adjourn the meeting until 8.30 this evening and then continue.

Mr Krishna Menon: The incorporation took place in the Pakistan Constitution and with regard to Chitral...

The President: I am sorry to interrupt. I did not get the reply to my question. Will it be a very long time?

Mr Krishna Menon: I will try to finish in half an hour but I can give no guarantee on that. I am not trying to drag this out.

The President: In that case I think the representative of India can proceed.

Mr Krishna Menon: The accession of Chitral has been accepted by the Government of Pakistan and it is included in the arrangements in the Constitution as a State that has acceded. Now Chitral cannot accede under the terms of the Cabinet Mission Document or under the obligations of the British Crown in the past, because its name does not appear in the States that are entitled to accession either in the 1935 Act or thereafter. We are up against time – I could read to you dozens of documents of the British Residents, of the Secretary of State for India in London, where the suzerainty of the Maharaja of Kashmir over Chitral is accepted by the British Government. And what is more, the Maharaja received tribute from Chitral which received subsidies from him. As for Chitral the position is that it is part of Kashmir.

So the Pakistan Government, I do not know for what reason, because it amalgamated the others in other ways, received the accession from the Mehtar of Chitral – the ruler of Chitral – which he had no right to give because he was only a feudatory; he had no right of accession. And it was incorporated in the Pakistan Constitution.

The matter came up before our Parliament and we have stated the position. It is not as though we were taking any effective steps to undo this business or to violate the cease-fire agreements, but the incorporation of Chitral is against the resolution of 13 August 1948 and what is more, a violation of the arrangements reached when the British left India.

I make a reference to part I of the Constitution of Pakistan and Article 1, clause (2) sub-clause (c) which incorporates territories which are under the administration of the Federation but are not included in either province. That is to say, anything that is administered by the Pakistan Government but is not one of the provinces becomes part of Pakistan. Now, the whole of these occupied territories is administered by Pakistan and so under Article 1, clause (2), sub-clause (c) Pakistan has illegally incorporated these territories.

Therefore, there has been a violation of the cease-fire agreement, a non-withdrawal and the incorporation of these territories. This applies to Gilgit, Baltistan, Hunza and Nagar, the whole of western Kashmir and all those areas which are on the other side of the cease-fire line. And therefore if the changing of either the *status jure* or anything else was wrong in so far as the Constituent Assembly was concerned – which we deny – here is a major sin. The Security Council has been faced with this fact, that the territory over which, under the resolution of the United Nations Commission, Pakistan had no right whatsoever, which Pakistan was supposed to vacate, where only local authorities can function, is incorporated in the territory of Pakistan.

Incitement to War against India

But the most difficult and the most important of these violations are in regard to the campaigns that are carried on in Pakistan itself. Now this has varying tempo, sometimes it is more, sometimes it is less. It is not aimed at the personalities of India, but also against the whole of our country. "The liberation of Kashmir," said the Governor-General of Pakistan on 19 September 1956, "is a cardinal belief of every Pakistani. It is an integral part of Pakistan, and Pakistan would remain incomplete until the whole of Kashmir is liberated."

The *Times of Karachi* carried the Pakistan Prime Minister's speech on the tenth Independence Day. "I am ready for the liberation of Kashmir," he said and added: "but I want the people to get ready." The freedom of Pakistan would not be complete without Kashmir, he asserted, and exhorted the people to acquire the spirit of unity. He said the Kashmir dispute was now going before the Security Council, but asserted that the nation would not rest there (S/PV.762, Add.1, annex II, sect. 1). I want to draw your attention to that phraseology: "The nation would not rest there." So the Security Council is only part of the procedures to carry out other designs.

The Prime Minister made another speech where:

"The crowd listened to the Prime Minister and cheered him when he declared that he would not rest until the Kashmir Muslims were freed and that he would not allow his countrymen to become slaves, even if they were to live without food or clothing."

The Governor of West Punjab said:

"So long as a single Pakistani is alive, nobody dare snatch Kashmir from Pakistan by force. . . . If the problem is not settled immediately, the whole of Asia would be engulfed in the flames of war which might lead to a world conflagration." (Ibid.)

He also said: "We would not mind being cut into pieces but will certainly conquer Kashmir." Here is another statement he made immediately afterwards: "We will have to exhibit our strength if we want to take Kashmir." (Ibid.)

The Chief Minister of the North-West Frontier Province said:

". . . not only the entire Pathan population" – these are the people from whom the hordes came before – "of Pakistan and the tribal areas will rise up for the holy *Jihad*" – the holy crusade – "in Kashmir, but our brothers from across the Afghan frontier will also throw in their lot with us for the cause." (Ibid.)

If that is not an incitement to war against our country, I should like to know what is.

I shall not read in full the statements of important persons and religious leaders but I shall refer to them. Here is a statement by one of the most important leaders: “Today Pakistan is standing on the verge of war and sooner or later she will have to go to war against India.” (Ibid.)

There are other newspaper articles, but I do not propose to read them. Since the Security Council passed its resolution, there have been considerable demonstrations in Pakistan, and the whole tenor of these is the conquest of India, that is to say, the leading of armies into our territory; and there is the exhortation to the people to carry on this campaign. It says that it means fear of God, financial sacrifices by every individual, whether trader, master or clerk, getting together and making a firm resolve to unite the nation. This is one of those things on which India has definitely given its pledge and no responsible person in India would ever say a thing like that. It urges purification of the heart and feelings of unity. Everyone should be overflowing with excitement and make it a point to assemble at fixed places in their respective towns. In all these public meetings Pandit Nehru would be asked to hand over Kashmir by a given date and give up forthwith the annihilation of Indian Muslims and enmity towards Pakistan, “failing which batches of ten lakhs (meaning a million) would march towards Amritsar and Patna.”

These are some of the slogans, which are officially based. They are sponsored, because these demonstrators are received by the Prime Minister; he spoke to them. I cannot read the Hindustani, but I shall read the translations. Here are some of the slogans:

“If Nehru is finished, that would be the end of Congress, and the capture of India would become certain.”

“Ten lakhs should get prepared for the march towards Amritsar.”

“If every person would make some sacrifice, India would be conquered.”

“India is bound to be conquered after these ten years of sufferings. Get ready.”

“Get united. Get righteous. India will be conquered.”

“Leave all the parties and turn Muslim. India will be captured.”

“Give up all rivalries. India will be conquered.”

These are all different posters.

“Weigh correctly. Make an honest living. India will be conquered.”

Then there is another thing: salutations to every person they meet – “India will be conquered.”

Shah Rahmatullah Wali predicted that Muslims in 1957 would conquer India. “Therefore, march. Once India is conquered all ailments will end.”

“Fulfil your promises. Don’t tell lies. India will be conquered.”

“Do away all your enmities during 1957, if India is to be conquered.”

“Settle all your mutual affairs. India will be conquered.”

“Observe complete *Hartal* on date announced, if India is to be conquered.”

I have quoted only some of these. There are some which it would not be aesthetic to read in the Security Council. So this vast campaign of religious hatred and fanaticism is fanned. That is the position.

India Will Honour Its International Commitments

Now I think it is necessary for me to state to the Security Council the position arising from all this. In order to obtain an end of the aggression and to implement the complaint on which we came here, we joined in every endeavour that was possible. The view that is taken with facility that we committed ourselves to something without preconditions is, I submit, wrong. It is not only wrong, but I should like to quote to you the appropriate provision of the Charter. I refer to Article 24, paragraph 2. I shall read only one sentence:

“In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations.”

The Purposes and Principles of the United Nations are, as far as is relevant to this, set out here, and this is the important part:

“...and to bring about by peaceful means, and in conformity with principles of justice and international law...”

I submit that the considerations of international law that I have pointed out to you, the considerations of justice that I have pointed out to you, the desire of India to live as a democratic community giving equality to our people to enable a large democracy with nearly 200 million voters to demonstrate to ourselves and to the

world that that way of life is possible – that is one of the treasured objectives our people have.

Therefore, the further article in the Charter, referring to this particular matter, which is binding upon our friends opposite, is Article 2, paragraph 4:

“All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.”

I am directed by my Government to say that it has been sometimes said, perhaps with a feeling of apprehension, that the people of India and its Government have not reconciled themselves to the idea of partition and the existence of Pakistan. I tell this Council what we have told all the world: that we have no desire whatsoever to undo the partition. It is the price we paid for our independence. We did not like it. Nobody likes his country to be cut into pieces. But it was better than civil conflict at that time. It was an agreement we shall honour. We have no desire to reunite India as before partition. In fact, we have enough problems of our own. We have enough headaches and difficulties, and we do not want to take on more.

So I want to make this solemn statement that any propaganda, any statement, any fear, any apprehension, any suspicion that exists in anyone's mind, that my country, my Government, or our people have anything but the desire to live in peace with our neighbours does not correspond with the truth.

We have come to so many agreements with Pakistan on various matters. They are suffering; we are suffering. We have families that live on the two sides. We have lost a lot of territory in the sense of the constitution of our State but we are getting the people. There is no responsible person in India – never mind the political parties – there is no responsible body of opinion that wants to venture on an act of hostility. I ask you to read the Indian Press and the statements of Indian leaders and compare them with what I have said about the other side. I confess that there have been one or two student demonstrations.

Our leaders have done everything they can to persuade our people, and successfully persuade them – we are a free country, and we cannot stop them – not to indulge in expressions of hatred either towards Pakistan or towards the United Kingdom or towards anybody else they may think is involved in this matter. But the main thing is this: We have no desire to undo the partition. We do not regard that as a *pro tem* affair. We agreed to it with our eyes open. We knew the consequences. We have suffered economically, politically and culturally. We have created problems for ourselves. But, if we were now to try to do anything, those problems would become worse.

We recognise Pakistan as a sovereign State. And not only do we recognise it, but it is a sovereign State. We recognise all its attributes of sovereignty. We have no desire to interfere in its affairs. We are not interested in its form of government. It can have elections, if it wants them – and it does not have to have them, if it does not want them. We only want to be left in peace. We will not at any time yield to provocation to use force. But if our territory is violated, we shall look to the Security Council, to the Charter, to the public opinion of the world. And my country has given continuous evidence, tangible evidence, of its loyalty to the Charter, of its willingness to take on responsibility, of its readiness to take on unpopular roles in what it considers its duty in regard to international obligations. And therefore any suggestion, from whatever quarters it may come, that India nurses some hatred, that Kashmir is a jumping-off ground for something else or part of a score that is not settled, is entirely unhistorical.

I want particularly those who have been closely related to us in the past, who know some of the background, to bear this in mind. India will honour its international obligations. The only obligations are the two resolutions of the Commission. Those two resolutions have to be judged in the light of the words in them, the spirit in them – I do not say we will be going beyond the words or what they intend – which can be reasonably drawn from the printed words of the time and the assurances given as solemn undertakings. And we shall honour our undertakings. But time has passed and certain things have happened. Our position is that the State of Jammu and Kashmir is Indian territory; it is part of the Indian Union.

We came here with a complaint of aggression. In our submission, it is the duty of the Security Council and the duty of member States through diplomatic channels, through co-operative action or individual action, to exercise their influence in order to put an end to this aggression.

My Government invites the representative of any Government to go into Kashmir. No one will stop you. You can go anywhere you like – ask anybody you want. We have neither silk curtains nor bamboo curtains nor anything of that kind. You have to obtain permits and pay for your living. But, apart from that, it is an open country, which is visited by thousands of tourists including foreign journalists. It is a territory where, for a long, long, long time, there has been backwardness.

It is no argument on the part of my Pakistan colleague to come and tell us that the Maharaja of Kashmir paid the British Government – what was it? – a half million pounds, and therefore bought this piece of land. I ask Mr Lodge whether the United States Government would be willing to take that view about Louisiana and return it to France, or to abdicate its rights over Florida and return it to Spain, or over Alaska and return it to Russia, or over Rhode Island and return it to whomever it belonged to. Purchases have been made in the past – and, if there has been any immorality about the purchase, we were not the rulers at that time. Her Britannic Majesty, Queen Victoria, held the responsibility. And we are not

shirking the responsibility, because we are her successors in title. So whatever has happened there has happened when Pakistan and we were one country – and we cannot now separate the sheep from the goats.

I submit the views of the Government of India to the Security Council in the firm belief that, above all things, it has to be remembered that there is prosperity in the land of Kashmir. I have not been able to read the various commentators – Scandinavians, who are traditionally neutrals, have been out in our country and have seen these things – but there is peace and prosperity, there is development of democratic institutions among a people who have been steeped in ignorance and backwardness for generations and have had no industries, no development of water power, no exercise of the franchise. That has been done in association with the country where not only are there 200 million people entitled to exercise their franchise but where, over and above that – in our land of India – there are probably 200,000 bodies where people exercise power in that way, where every single person, from the President to the lowest village official, is elected.

Any unsettlement can only be based on the appeal to non-secularity; it can only be based on this appeal to religious prejudice. The only “claim” that can be put forward on behalf of the Pakistan Government, in regard to Kashmir, is that the majority of its population is Muslim. And my Government – totally, for all time – repudiates what is called the two-nation theory. We will not accept as the basis of our State the religion of a people. The United Nations is a secular organisation. The majority of you would not discriminate against a Catholic or a Protestant because such a person happened to be in the minority. But here is the Constitution of Pakistan, which says that, if a man does not belong to the Islamic religion, he cannot be the President of the State. (I invite you to read an article by Mr Sulzberger, of the *New York Times*, a paper that is consistently hostile to us on every question – an article which refers to the position that there will be no democracy in Pakistan. I am not quoting him as an authority; I am quoting him as a friend of theirs. So there it is.)

Whatever there may be of right or wrong in a problem, if there are difficulties in a situation – and I repeat: a situation – it is necessary to find means of settlement.

I ask the President and the members of the Security Council whether, in the ten years that my country has been represented here, it has been found wanting in attempts to reach these solutions. Can the Government of Pakistan tell us that, in very complicated matters of other kinds, we have not gone through a great deal of negotiation and settlement along with it, and that we have not bent over backward to find settlements? We are in the United Nations with a record that is clean.

On the other hand, there is the crime of invasion – and that is a crime that cannot be tolerated. We have not asked that anybody be branded an aggressor. Why? It may be a mistake on our part.

I have deliberately not referred to suggestions that have been made by the Foreign Minister of Pakistan, as to what he regards as solutions and they are violations of the Charter and of international law and they are a mockery of the undertakings that rest on the shoulders of Pakistan Government. My Government does not regard it as right, so far as its duty to the Security Council is concerned, to discuss those proposals unless the Security Council wants to discuss them. So far as we are concerned, there are no proposals. We have given the solemn undertaking that we shall not use a gun, we shall not fire a bullet, we shall not move an aeroplane over the cease-fire line to assert our rights, that is to say, we shall not determine by force the future of that part of our country which is under Pakistan occupation. We shall seek to solve every problem peacefully, but our peacefulness is limited by the fact that we shall not brook aggression upon our territory. And we look to each one of you to stand with us if there is a violation of one square inch of Indian territory, because we are a loyal member of the United Nations. To each of you we are bound not only through the United Nations but by bilateral ties and by appreciation and respect, even when we are in fundamental disagreement. And I submit we have the right to look to you in a matter of this kind.

It is not the kind of problem where a resolution can be passed and it can be said that somebody disobeyed – I told you about the nature of resolutions. The only resolutions that are binding on us would be resolutions under Chapter VII of the Charter, and this problem is not under Chapter VII. But I am not arguing legalities, I am not the defendant in this case, I am the plaintiff, although it may not so appear after these seven, eight or nine years. That is because we are a mild and meek people, which is shown by our patience in this matter, our forbearance, our desire to explore everything. The Security Council, if I may say so, and if you will pardon the expression, has no right to think that our country is going to throw overboard the principles of the Charter, our insistence upon a secular State, the fundamental rights that are guaranteed to our people under the Constitution, the freedom that our people have won, which has also brought freedom to Pakistan, and the terms of co-operation with those who are our erstwhile opponents, with whom today we can disagree and still remain friends. It is those things that we value, and that is why my Government has given me instructions to present this case as fully as possible.

What has been committed in Kashmir is a violation of our territory; and any imprudent action could plunge the whole of our continent into bloodshed and civil war. It was wrong of the Foreign Minister of Pakistan – who ten years ago was a fellow citizen and even today is a very close friend – to tell us these are threats. We utter no threats. What do we want to threaten anybody for? We are a very large country with many problems to tackle. We only want to be left in peace. We have no desire to stop their waters or their money or their trade or anything of that kind. To the extent to which our home responsibilities permit, we are prepared to co-operate. It is not we who have turned our faces away from the sub-continent of India. It is Pakistan that has turned away from the continent of India. We still regard it as part of this ancient land whose heritage is common to both of us.

It is in that spirit that we ask you to consider this problem and to give it all the consideration it requires. On behalf of the Government of India, I am asked to pledge our faith that we shall never be found wanting in the methods of exploration but I think it is necessary to take a realistic view that the resolution of nine years ago, the conditions of nine years ago and the slogans of nine years ago, – and if I am not out of order, I turn to my colleague of the United Kingdom – and the newspaper campaigns in different countries will not shake our faith in what we regard as the righteous course of action that we took when we came here.

I want finally to ask: Why did we come here? Not because we were a weak country. The British left us a military strong country. They left us immediately after the war with nearly 2 million soldiers, a great part of them only just demobilised; we had a military position superior to that of Pakistan. Militarily we could have solved this problem any day, but that would not have been a solution. That is why we came here, and if this aspect of the problem is not taken into consideration it is not India alone that will suffer – India's suffering will be momentary – but the Charter, the United Nations, which will suffer because this is a penalty which is imposed upon those who will obey the law. We came here in full trust in the United Nations. For nine years we have been pushed from pillar to post and we have been castigated for allowing our people to express their will.

Do all you democratic countries say that the four and a half million of Kashmiris should have been ruled by the officials from Delhi without having the opportunity to express themselves in Parliament? You talk about those people who are imprisoned; is there any country around this table who has not got some skeleton of this kind in its cupboard? If there is, it is a happy country and we wish it well.

Let anyone show me anything that Sheikh Abdullah has said from the time when he became the leader of the national movement in Kashmir – which started as a Muslim movement and which he gave up saying: it is my country, Muslim or otherwise; he would not stand for that. He went to the Constituent Assembly and plainly offered three alternatives: you can go to Pakistan; you can remain independent or you can go to India – and he rejected the first two. I challenge anyone to show me one phrase uttered anywhere by Sheikh Abdullah – and he has now become the pet idol, although before he was called a quisling – I ask anyone to show me one phrase where he says he wants to become part of Pakistan.

If we are told that we did not permit anybody in Kashmir to say that there should be a plebiscite, I would say that there is nothing further from the truth than that. One of the political parties in Kashmir which was allowed to fight in the election, which was registered as a party, is called the Plebiscite Front. Its leaders are out, they campaign, they use even the mosques for propaganda and we have not denied them anything. How could we, with 70,000 people a year going there, with many journalists in the place at any time, even if we wanted to? What is more, what would be the reaction upon the rest of India? Our country would not stand

for that and if you suggest to us that there should be unsettlement, we say that unsettlement is the worst thing that the Security Council could wish for, not only for us but for the Asian continent. And I look to my Asian friends to think of that problem as well.

The instability of any part of our world, which has just emerged into national birth, is an instability that will affect everybody. Today our voice is not heard in high circles in Pakistan but we are not without friends in that country. Our view is that we have our own troubles and they have theirs. If we can help them we shall do so, we do not want to hinder them. That is why for two years we have been sitting in Washington under the auspices of the International Bank for Reconstruction and Development discussing canal waters and so on and it might amuse the members of the Security Council to know that the greater part of the waters of Indus runs into the sea without going anywhere. But we are prepared to meet with Pakistan and we have met considerable financial losses in that way.

We cannot get away from the fact, however, that our country has been invaded and that for nine years we have never used any phrases such as: "After the Security Council, what?" – because that is not the way to look at this problem. We are part of the Security Council even if we are not members, because all of you here represent us; and therefore we say there cannot be any solution to this problem except by recognising the "original sin." We are prepared to have discussions, to find ways and means, but we cannot find those ways and means without such recognition. This is not obstinacy; we have tried everything. This is the only way to deal with this problem and I believe Pakistan and ourselves can come to agreement on that basis.

My colleague quoted the Koran. It is not the monopoly of the Muslim, and I will quote for him – and not in the spirit in which it was quoted to me. One part of it, in the English translation, says:

"And whoever committeth a crime, committeth it to his own hurt. And God is knowing and wise."

"And whoever committeth an *involuntary* fault or a crime, and then layeth it on the innocent, shall surely bear the *guilt* of calumny and of a manifest crime."

15 February 1957

Mr President, I believe you reminded the Council this morning that its proceedings would centre around the draft resolution (S/3787),¹ or at least I gathered that impression. Since there have been reasonably long debates on the general issue, I propose to confine myself to the draft resolution initiated by the United Kingdom and the United States and sponsored by Cuba and Australia in addition.

The operative part of this draft resolution requests the President of the Security Council, the representative of Sweden,² to examine with the Government of India and Pakistan proposals; to visit so far as we are concerned, India for this purpose, and invites the Government of India to co-operate.

Before I enter into the substance of this matter and in order that the position of my delegation, my Government and my people should be understood not only in the Security Council but in the outside world, I should like to state here and now that so far as we are concerned, Mr President, your counsel, your country, the high office you hold and your person are held in high respect in India, and you would be welcome at any time. But the question of the functional character of the operations you propose to undertake would be another matter, which we would have to discuss in substance. Therefore, the traditional hospitality of our country would not be disregarded, even in the face of a Security Council resolution with which we may find ourselves in disagreement.

Having got that out of the way, I would like now to refer to the subject matter that is before us this afternoon. There have been several speeches. The majority of them, if not all of them purport to be based upon the statements made by India and Pakistan and, for the greater part, refer to the statement that I made in this Council. Therefore, it becomes necessary for me to deal with the more relevant parts of them because it is impracticable to deal with them paragraph by paragraph. First of all, I do not have the script with me and, secondly, it will become interminably long. After that I will try to examine the draft resolution before the council and deal with its more important aspects as far as the text concern us.

Next I will try to convey to the Security Council what its consequences would be. I do not mean the short-term consequences of how members of the Council vote. What would be its consequences with respect to peace and stability in our part of the world, with respect to public opinion not only in India but also in Southeast Asia, with the exception of parts of Pakistan and with respect to the purported objective of the draft resolution itself? These are obligations I owe to the Council.

¹ Draft resolution S/3787 was introduced by Australia, Cuba, United Kingdom and the United States. *Official Records of the Security Council*, Twelfth year, 769th meeting, pages 10-47.

² Gunnar V. Jarring.

Some of them may not be welcome to those who are the authors of certain observations. But my duty here is not to reflect the will of other governments but to reflect, as far as I can, the will of my people and my Government and to convey to you the state of affairs.

It was not so long ago that, for the sake of peace and in order not to drive certain issues to differences, we came to an agreement with the British Government of the day to station a boundary force under a supreme command on the Indo-Pakistan frontier in the West. It was one of the great tragic decisions we took, largely buying that time in the necessities of the situation. I do not think either of our countries had made a more sad decision because as the result of that came the great slaughter of 1947, with respect to which my Prime Minister decided to dissolve the force.

Military Agreement between the United States and Pakistan

The first statement by a Council member was made by the representative of the United Kingdom for whom we have very great respect. With his country we had relations of one kind, and we have relations of another kind today. Those relations have been strained considerably by the British adventure in the Middle East and now their adventure in regard to Kashmir, but, so far as we are concerned, we would do our best not to allow these individual actions on the part of the United Kingdom Government – not of its people, fortunately – to come in the way of the more substantial relations that should exist between our countries. But I would be doing no service to this Council, or indeed to the United Kingdom or to the very many friends that we have there and with whom we have been in such close relationship if I did not indicate to them the enormous, deep and very vehement feelings in India at the present time in regard to the United Kingdom. The United Kingdom might easily retaliate by saying: “We felt somewhat like that when you took a certain position in another matter.” Of course, that is one way of looking at it.

Sir Pierson Dixon, after tracing the history of this matter, said that finally, after the failure of various missions, to which I shall come back in a minute, including that of Mr Graham, whose absence from this table my delegation regrets – even though there is nothing very much in Mr Graham’s report that assists the statement of the position that we made, because he did not examine that – the breakdown of the direct negotiations was due to extraneous causes. We had, during the course of this debate, largely because of our concern in regard to Indo-American relations and to avoid issues of the “cold war” outside the Kashmir question and, what is more, in the hope that the present lapse from fortitude and wisdom in this matter was temporary, not referred to them, but the extraneous consideration to which Sir Pierson Dixon refers is the military agreement between the United States and Pakistan.

Our views on this matter are very well known, and there is no doubt – and again one must state the facts of the case – that the added military strength of Pakistan by the supply of very considerable quantities of war material to that country, of which we have some knowledge, has certainly altered the situation. But it would be equally wrong to say that was the only changed condition, or indeed the reason for the direct talks between Mr Mohammed Ali, the former Prime Minister of Pakistan, and afterward someone else, and the Prime Minister of India. It did weigh considerably, there is no doubt about it. What is more, we at that time said that in relation to Kashmir we could not consider the United States as being neutral, and for that reason, and with the utmost politeness, we suggested that observers of United States nationality were not the best people to serve on the cease-fire line. They responded with equal politeness, and we resolved that situation as between two countries who have no desire to exaggerate a difficulty. I regret that this matter has come up, because I have been at great pains to avoid it, but it was referred to by a close ally of the United States, and it is not my practice to run away from any argument that has been put forward. So that is that. So this extraneous relationship, if it is one of the factors, was not the factor that led to the breakdown of the negotiations.

The Question of Demilitarisation

Sir Pierson Dixon made other statements. I picked out that speech because that is the keynote speech, as they call it in this country. The other speeches follow more or less that line with the exception of the speech from Colombia. That is, they lay stress on what is called demilitarisation. This word “demilitarisation” for this purpose must be interpreted with the connotation that it had derived through the years, by negotiation.

In spite of the Security Council having heard my voice for so long, perhaps the members would be so kind, even if they did not read 1 per cent of the papers before them, which is impossible because there are so many of them, as to at least refer to the resolutions of the Commission and point out to me any place where there is reference to demilitarisation. Demilitarisation is a phase and a problem, as it is now pinpointed, which arose as one of the methods for creating the conditions under part II of the resolution of 13 August 1948 (S/1100, para 75). It is very important for us to refer to this in view of the other suggestions in the resolution. The whole of the picture is sought to be covered by demilitarisation, but we are prepared to face this in this way.

When either the United States or the United Kingdom speaks to us about the importance of demilitarisation, they have to take into account certain factors. In Kashmir, which the legitimate Government of Kashmir administers, there are units of the Indian Army. I want to explain this. The Indian Army in Kashmir is not a foreign army any more than we have a foreign army in Bombay. The Kashmiris pay for it like everybody else. That is, certain units of the Army of the Indian Union are in the Constituent State of Kashmir. They are easily identifiable.

They have no uniforms that are not army uniforms. Their divisions and their numbers are well known. In addition to this, we have in Kashmir approximately 6,000 men belonging to the Kashmir militia. These are published figures or, if they are not, I shall publish them, and I take the responsibility for doing so. There are 6,000 men who belong to the Kashmir militia, who are a kind of territorial force, a State force, largely of an armed police character, intended for internal security and the like. That is the total strength of our military position in Kashmir, far below what it was at the time of the cease-fire.

On the other side, according to our information, which normally is reliable in regard to Pakistan military dispositions, there are forty-five battalions of the “Azad” Kashmir forces, officered by men of the Pakistan Army. If the Security Council has any doubt about it, we shall some day be willing to furnish you their names, their ranks and their particulars from available sources. They are officered, trained and equipped by the Pakistan Army. They are well-trained soldiers. There are artillery regiments, cavalry, a tank corps, and so on. There were thirty-five, but now there are approximately forty-five battalions of these troops. In addition, as Mr Firoz Khan Noon admitted the other day by implication, the Pakistan Army itself is there, because he said he would withdraw it, and you cannot withdraw what is not there. Therefore, in addition, there is the Pakistan Army itself. When we speak about demilitarisation, we have to think of this military element and what is demilitarisable.

Add to that two other factors. There are the commandos that are being trained, of which there are 800 in school at all times. When they are finished, they are thrown back into the population. They are another military element in the situation just across our border, mainly in the population. This is not in the whole of the Pakistan-occupied area, because over the whole of the Pakistan-occupied area, in Gilgit, Baltistan and so on, these factors do not apply so much, but in this small area where there are half a million people.

In addition to that, as I pointed out the other day, there is today an army in Pakistan, which is out of proportion to the relations established at the time of partition. Pakistan has well over 200,000 men equipped not only with the normal equipment that comes from the United Kingdom under the usual purchase arrangements, but with the considerable supply of military material that comes from the United States in pursuance of military agreements, which are not directed against us, so far as the United States is concerned – and we accept that situation so far as the United States is concerned. They are within very short distances of our frontiers. I gave the Security Council the mileages the other day (764th meeting, paras 118 and 162).

Therefore, when we speak about demilitarisation we must take all these elements into consideration and set them by side with two other factors. You gentlemen here representing the member States are not merely concerned about passing

resolutions but about their vast social, political and world consequences. Let us set these factors side by side with two others.

One of these constitutes the remarks made by representative of Pakistan outside his printed text when he first spoke here. He stated:

“Here I would like to say that it is sometimes argued by India that everything is peaceful, so why bother about Kashmir? But I warn you” – he warns the Security Council – “that is a calm before the storm. Everything is not peaceful. We have just seen a telegram which states that, on 11 January, our Minister for Information, Mr Amir Azam Khan, made a statement in Karachi that the Indians have massed their troops on our border” (761st meeting, para 105) – a statement which I contradicted the other day.

The representative of Pakistan then went on to say:

“Please do not be misled by the fact that we are peaceful and that we want a peaceful solution.” (Ibid., para 106)

This is exactly the pattern, and there may be those who remember this fact, that occurred in 1947. We were told: “Wolf, wolf” – at that time – “it is coming, it is coming; after all we cannot stop it.” And then it came and the Pakistan Army came afterwards.

The *Daily Telegraph* of London – a paper which is not friendly to India – carried on 11 February 1957 an interview with Sardar Abdul Qaiyum Khan, President of the “Azad” Government. I shall not read the whole of the interview, but this is a part of what he said:

“It is coming to a fight in Kashmir” – this is issued not from “Azad” Kashmir, but from the Ministry of Kashmir Affairs in Karachi – “whether the people like it or not. We have no alternative left and I have told the Pakistan Government this. I had expected we should be fighting by December or January but certain factors intervened.” – The fact of the United States elections, and therefore the Security Council was put off. “I now think it is certain there will be fighting this year, perhaps even in a few weeks.”

When the correspondent raised the plebiscite issue, the President said:

“Recent Security Council votes were not encouraging politically” – that is also borne out by the testimonial to the United Kingdom Government by the Pakistan Prime Minister, to which I shall refer in moment – “but Kashmiris want to see results at last, if not by diplomacy then by war. India will never agree to a free plebiscite. India had occupied most of

Kashmir and had poured money into her organisation there. She knew that Kashmiris on a free vote would never opt for India, so Nehru would be crazy to agree to a plebiscite. I don't think he is crazy." – That is the only part of it that is true. – "It will be a people's war: we know our country. In Kashmir we can give the Indians hell. We are much better equipped" – this is another truthful fact – "now than in the former fighting when we often had no more than five rounds per man."

The President went on to point out that "*Azad*" Kashmir was not a party to the cease-fire agreement – this again is the pattern of 1947 – and therefore was not bound by it. He said:

"If the United Nations would leave the matter in the hands of '*Azad*' Kashmir fighting men for just a few weeks, the question would be solved. Nehru only understands that kind of language. He would come running to the United Nations begging them to intervene on his behalf. We can turn both flanks of the Indians."

This is only a sample of what is going on. I want to report to the Security Council that this type of wild statement is being made at a time when a vast election campaign is going on in India, where we are addressing, as I stated the other day, an electorate of 200 million people. I state to the Security Council in all conscience that the efforts of our leaders at the present moment are to exercise restraint upon the people so that they should not become inflamed. I could quote to the Council, if there was time, the speeches made by the Prime Minister in this connection, when he said that if misfortune shall befall us by way of attack, we should meet it with fortitude and calm, but there was no need to get excited.

Normally this does not very much matter, but we had a dress rehearsal and we had a performance. When the Security Council passes resolutions which have the effect of unsettling events – unsettling in Pakistan, in the occupied areas, in Jammu and Kashmir and in the whole of India – then it takes upon itself a responsibility which, fortunately for itself, it will not have to shoulder, while the people of India will have to shoulder it. I hope that my good friend, General Carlos Romulo, the representative of the Philippines, will not say that I was admonishing the Council. I shall come to that in a moment.

That is the background of what the representative of Pakistan refers to as the decrease in tension. Unless this is measured in reverse terms with the whole thermometer upside down, I do not see how this can mean a decrease in tension. There is a decrease in tension between Pakistan and India in certain other matters, particularly between India and Eastern Pakistan in respect of which we have concluded trade agreements and where the population is less inflamed by these matters. Therefore, when we speak about demilitarisation and a decrease in tension, these matters have to be understood.

While I am on this point, I might deal with one other matter, because my Government is very anxious and very concerned that no statement of ours or any errors of omission or commission should be charged up to us as a commitment. We have suffered by reasonableness in our proceedings before this Council. Every time we considered a hypothetical proposition and every time we have agreed to embark upon an exploration, it has been charged up against us as a commitment. Therefore, I want to say here and now that whatever mathematical calculations were made with regard to 6,000 or 3,000 or 12,000 or 21,000 in the various previous negotiations, these no longer hold true, because no offer that is not accepted is a binding contract, either in the case of individuals or in the case of nations. Otherwise we should have a number of floating commitments, and no country would know where it stood. In the course of long negotiations, all kinds of offers are made. If the Secretary-General were to be committed to the many suggestions which he must have made in the past sixty days then he would be in an awkward position. The same thing is true with the respect to a government.

Therefore, I want to say here and now, Mr President, that if you were to go to India, or if anyone were to go, it would be no use telling us that we agreed to this and that at the time and that “now therefore you are committed to it.” We agree to nothing – we discuss all these proposals. They must all be considered, as with any problem, in the context of the time. We agree to things to which we are parties.

Our Engagements and Their Context

That brings me to the next propositions put forward by the representative of the United Kingdom. He said, quite rightly, that it is common ground between Pakistan and India that the only obligations appearing in this matter are the resolutions of 13 August 1948 and 5 January 1949 (768th meeting, para 13). But Sir Pierson Dixon would feel flattered by the fact that I was educated in a system for which he has very great appreciation and therefore I take care to be precise in language. I said that the only obligations we “had” undertaken – and, although English is rather sparse in grammar, it does have tense – were these two resolutions. It is quite true that my distinguished colleague put it differently. I do not say that his language is more precise, but he has more friends around this Council than I have, and therefore he does not have to be so much forewarned. And I suppose that General Romulo would say that I am, by nature, suspicious. Of course, he is wrong.

At any rate, we say that these resolutions of 13 August 1948 and 5 January 1949 are our only engagements – and I used the word “engagements” very deliberately. I said that they could be elevated to the form of treaties if they were formal. But what we said was that the only international engagements are the two resolutions of the Commission – and this is recounting history at the present time. I do not object to the statement made by the distinguished representative, but it bears the inference that this thing stands by itself, without any further progress in that matter or any past history. Those engagements have to be understood in the

context of all that was said at that time. That becomes necessary because someone is likely to say: "Well, here are these resolutions. It is quite true that you did not get anywhere with them. Why don't we start on them tomorrow morning? Well, tomorrow is Saturday, and on Sunday we go to church, so we will start on Monday." That would not work because you have to take all the surrounding circumstances into account. And that is why it is necessary to repeat very briefly the fact that the position of the Government of India, as stated the other day by the Prime Minister in a speech at Allahabad, is that Pakistan has violated the cease-fire agreement. That is a far more grievous charge, and we make that deliberately: the Pakistan has violated the cease-fire agreement by the introduction of military personnel and materials into the area and by the annexation of territory. And therefore, when the first part of the agreement stands violated, the consideration of the second part becomes very, very, very subsequent. That is very bad English – but it becomes very subsequent.

Therefore, the observations made by the representative of the United Kingdom must be taken in the context, first of all, of the explanations that I submitted on behalf of my Government and the fact that, since the conclusion of that agreement, there have been violations of part I by the accentuation of the forces on the other side of the cease-fire line and by the assimilation of territory.

The President of the Council is what might be called an example of the European neutral. I would ask him, in all conscience, since I am entitled to address a question to the President: How is it that when the Constituent Assembly of Kashmir, under our constitutional procedures and using only the pen and not the sword, working over a period of five or six years and proceeding from a legal instrument about which you all say you are neutral – nobody has challenged it so far – writes a Constitution which does not alter any of the physical facts, that is called annexation, whereas the eleven members around this table never turned around and asked the Pakistan delegation under what title its Government annexed these territories of 42,000 square miles? The latter was barefaced annexation.

Here I propose to cite to you assurances, documents and statements made in the Security Council time after time, that the sovereignty of the Jammu and Kashmir Government remains inviolate and that neither the Commission nor the Council will do anything to alter it.

That leads me to the third point. Sir Pierson Dixon referred to engagements. He is a friend of mine, and I am sure he will forgive me for centring the argument around him (in a sense, it is an expression of great esteem). I said the other day that this engagement bound our two countries. Since this is probably my last main intervention during this episode of the discussion of this item, I should like to say that there are three parties engaged in the whole process.

The Security Council is a party to the resolution of 13 August 1948, and we of the Government of India have the privilege and the right to ask the Security Council what it is going to do about the violation of part I. The Council is very quick in passing resolutions about the Constituent Assembly and being misled into acceptance of what was put in a “crisis atmosphere.” How is it that no question had been asked by the eleven nations represented round this table – I ask this question only because my people will ask and because the Security Council does not represent only those eleven countries but, as we understand it, all the member States of the United Nations – about this apparent, gross, obvious, continuous, persistent and flagrant violation of the cease-fire agreement, of international law, of commitments contained in the Security Council resolutions and Commission resolutions, and solemn understandings given by representatives of member States to our Government, which are in writing and which have been made public?

The shoe is on other foot. That is to say, the annexation is on the other side. The Security Council would be justified in asking us why we have not requested a meeting in order to complain about this annexation. The answer is twofold. My Government proceeds on the basis that this problem – and that is what it is; it is not a dispute – is one of extreme complexity, which involves India-Pakistan relations and various other factors. The solution of it, which was supposed to be proximate on 1 January 1949, is still far from being at hand. We consider that we have a duty not to re-agitate matters and therefore we have let sleeping dogs lie so far as the actual state of affairs is concerned, without in any way permitting the Security Council or anyone else to obtain our assent – and it is repeated so many times – to any change or alteration in the status of this territory.

The representative of Colombia has referred to these matters (768th meeting). He probably has a first-hand knowledge of the questions, because some of these assurances were given by Mr Lozano. The Secretary-General has an easy way of ascertaining the facts in this connection, because some of the members of the Commission’s staff at that time are still members of the Secretariat here. These assurances are not hanging in the air; they are part of the resolutions. I deal with them more specifically today in view of the observations of the representative of Colombia.

To place demilitarisation in the centre of the present draft resolution is, in our opinion, a misreading of the entire situation. It is this aspect which has bedevilled the question since the time of General McNaughton. It is a matter of great regret to us that suggestions made, in a spirit of goodwill, by two persons from countries which are members of our Commonwealth should have been *ultra vires* of every decision and of the principles of the Security Council. Sir Owen Dixon is a distinguished judge; he is now Chief Justice of Australia. With great respect, I must say that Sir Owen Dixon seems to have approached this problem as though Kashmir were the Australian bush of 200 years ago – and, if Mr Walker objects to that idiom, if it is one, I shall withdraw it – as though Kashmir belonged to no one

and, therefore, a United Nations government or some other government could be set up in gross violation of the Security Council's express commitment.

My Government is entitled to ask this question: Why is it, when we have committed no violations whatsoever, that there is all this talk about violations by us? The Security Council itself – a party to this agreement – is remiss in not drawing the other party's attention to violations; the Security Council is remiss in not asking for the withdrawal of the other party from that area; the Security Council's representatives make proposals to us which are in gross violation of the commitments. Why is there no unanimity about these violations?

Sovereignty of the Jammu and Kashmir Government

In fact, we would not have discussed the 13 August 1948 resolution if there had been any suggestion that the sovereignty of the Jammu and Kashmir Government and India's competence as regards the defence of its frontiers – which are on the western and northern side of Kashmir – were in question.

I do not know whether the Security Council wishes me to go on citing these documents. The documents are before the Council, as I have said time and time again.

Mr Korbel, the Czechoslovak representative, who was Chairman of the Commission in August 1948, said that the sovereignty of the territory was not to be changed. In a letter, which the Prime Minister of India sent to Mr Korbel on 20 August 1948, the Prime Minister wrote:

“If I understood you (Mr Korbel) correctly, A.3 of part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3(1) of this letter. In fact, you made it clear that the Commission was not competent to recognise the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.” (S/1100. para 78)

Now, there was only one Jammu and Kashmir Government then, and there is only one Jammu and Kashmir Government now. I ask the representative of Cuba who is so attached to the idea of sovereignty and freedom from intervention in internal affairs, how he reconciles that position with this one in respect of Kashmir.

In reply to the above-mentioned letter, Mr Korbel wrote to the Prime Minister of India as follows:

“The Commission requests me to convey to your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation.” (Ibid., para 79)

In a letter dated 16 April 1949, the Vice-Chairman of the Commission, who I believe, was a United States citizen, wrote:

“It has consistently been the view of the Commission, as well as the Security Council, that pending the determination of the will of the people as regards the accession of the State to India or Pakistan neither body” – and this means neither the Security Council nor the Commission, not India or Pakistan – “will recognise any new sovereignty in the state. To do so would constitute a prejudgement of the will of the people.” (*Official Records of the Security Council*, Fourth year, Special supplement No. 7, doc. S/1430/Add.1, annex 19)

I read out all these documents because they have a relation to the draft resolution sponsored by the United States and the United Kingdom. They have a relation to the violation of our municipal law and the principles of the law of those two countries – and this particularly concerns the representative of the United Kingdom, for it is from the United Kingdom that we claim the heritage of this law. What is more, they have a relation to the violation of international law – and I shall return to this aspect in a moment.

I should like now to read out the following excerpt from the Commission’s third interim report:

“The territory evacuated by the Pakistan troops will be administered by the local authorities” – and the expression “local authorities” is intended to mean persons who are not a government, who are operating in the area *de facto* – “under the surveillance of the Commission and without prejudice to the sovereignty of the State.” (Ibid., annex 17, appendix)

Hence, there can be neither a Pakistan nor an “Azad” nor a “Gilgit” government, nor any other government, in this area. The other day, I read out to the Council the Commission’s agreement that we were entitled to station garrisons there for the protection of the routes from the north and northwest. (763rd meeting, para 62)

I continue to quote from the Commission’s third report:

“These provisions are without prejudice to the territorial integrity” – and, when part of the country has been annexed, that is certainly a violation of territorial integrity – “and the sovereignty of the State of Jammu and Kashmir.”

I could go on quoting from these documents – and there are so many of them.

In the Security Council, General McNaughton – who, I believe, was President of the Council at the time of which I am speaking – approached this problem as though this territory really did not belong to anyone, as though two parties were

fighting over it; he tried to place us both on an equal status. Sir Benegal Rau, who was then a member of the Security Council, wrote the following to General McNaughton in this connection:

“It has been admitted all along that the sovereignty of the Jammu and Kashmir State should be accepted over the whole area of the State.” – That is a statement of our position. – “If Pakistan irregular forces, such as the Gilgit or the Baltistan Scouts, remain in the northern area, the sovereignty of the State will be violated militarily.” – This, again, is a point which has an immediate bearing on the suggestion made by the United States and the United Kingdom. – “Further, if, as suggested, the administration of this area is to remain in the hand of the existing local authorities, which have been created by Pakistan and are aided by Pakistan officials, the sovereignty of the Jammu and Kashmir State in this area will be equally violated in the administrative field.”

That was said in reply to General McNaughton’s suggestion for the creation of a new situation, disregarding the basis of the procedures.

Members of the Council will thus be able to understand why the Government of India has to be extremely wary. A suggestion is put to us, and we are told: “No, you are not asked to accept it, you are only asked to look at it.” But the next day we shall be told, “You looked at it, and you did not think it was a profanity to do so; if it is not profane, then it must be sacred, and therefore it is binding on you.” That is the kind of argument that we have heard.

Sir Benegal Rau also said the following with regard to the question of sovereignty, on 7 February 1950:

“...accession does not mean dissolution: the acceding state remains intact and fully sovereign in its own field even after accession; it continues as a single unit. If, therefore, the plebiscite is to be held for the State as a whole, if the State is to accede as a whole, it must not be disrupted beforehand.” (463rd meeting, para 12)

I turn now to a memorandum which the representative of India transmitted to the United Nations Representative, Mr Graham, in September 1952. I allude to this later period in order to show that this is not old history. In that memorandum, the representative of India said that the Government’s position was the following:

“The administration of this area would, under paragraph 3 of part II of the resolution of 13 August 1948, vest in local authorities to be established or recognised for the purpose; to these local authorities, under the same resolution, only local administrative functions have been assigned. . . To give them any armed force equivalent to troops would not be consistent either with their status or with their function and would be a violation of

the sovereignty of the Union of India and the Jammu and Kashmir State. In the very nature of things, therefore, these local authorities can be entrusted only with a civil armed force.” (S/2783 and Corr.1, annex 5, sect.1)

In a letter to Mr Graham dated 17 February 1953, we stated:

“The Government of India are unable to agree to the retention of any military force in the so-called ‘Azad’ Kashmir territory. Not only would this be contrary to the assurance given by UNCIP to India” – and I contend that every assurance given by the United Nations Commission for India and Pakistan to India is an assurance given by the Security Council to the Government of India – “that the resolution of 13 August should not be interpreted, or applied in practice, so as to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops...” (S/2967, annex IV, para 2)

Of course, the evacuation never took place.

That is the position with regard to sovereignty.

Suggestion about United Nations Forces

The observation that I shall now make has relation to the whole conception which is now sponsored by the United States and the United Kingdom in regard to United Nations forces. There are also other matters connected with it. My distinguished friend, Mr Lodge, United States Ambassador, has told us at the 768th meeting that we are only being asked by the Security Council to consider this idea of United Nations forces, but it is not right to ask a sovereign Government to consider something that is against international law, against its own sovereign rights, and in violation of the agreement with the Security Council. It is unethical, inequitable and, what is more, it would not lead to a settlement. I am afraid that Mr Lodge made a slip when, in explaining the draft resolution, he used the words “specifically the United Nations force”, so that it was not just one of those things that are innocent. He said that the core of his draft resolution was the United Nations force and, Mr Lodge being a man of, if I may say so with great respect, great simplicity of mind and frankness and candour of expression, let this out. No doubt his speech had been very carefully looked into and the words had been put there. Since in a year from now these words may be quoted against us, I do not want to make any mistake of my not having something to show to you about that.

The United States representative has addressed a request to the Government of India to receive the President of the Security Council very cordially. We appreciate this request and accept it in the spirit in which it is made, but, as I said a while ago, so far as hospitality is concerned the present President is almost half

a native of India. I do not mean this in a disrespectful way; you are always welcome.

In the statement of the representative of the United States –perhaps I might make this general – there is no reference whatsoever to the people of the other side. My colleague from Cuba has spoken about rights, about self-determination, about the people and about all those things that we value (768th meeting, paras 87 to 90), but why is it we have not heard the voice of Cuba in connection with the freedom of the people who are under the suppression and tyranny of Pakistan authorities on the other side of our cease-fire line? Why is it that we have not heard that in ten years these people have not seen a ballot paper? Why is it that they are streaming into our part of the territory? Why is it they are under conditions of economic degradation? Why is it that when the five-year plan is making vast strides in the State of Jammu and Kashmir, there is no such thing at all, or even a semblance of it, anywhere in the Pakistan-occupied area? Why is it there are still wild tracts? What is more, why is it that the very men who are the accredited representatives of the organisations of this area make representations to the Pakistan Constituent Assembly and say: “We are but helots, we are but slaves, we have no voice in our own country”? With what voice can either the Security Council or anyone coming before it, demand a plebiscite for people on our side who exercise their franchise, who have freedom of speech, who function under scores of local bodies, who have freedom of discussion, who have newspapers, who have economic development? With what voice, with what strength of argument can Pakistan come before the Security Council and ask about freedom of choice for those people who have no freedom at all? We say that part I of the resolution of 13 August 1948 stands violated and therefore, Pakistan should have no say at all. It is my bounden duty to request the Security Council – not, my friend from the Philippines, to admonish – to give me an answer to these questions.

Our people are dedicated to the Charter. Their emotional reactions, as the Secretary-General will bear witness – I am not making him a party to our dispute – are dedicated to the Charter. They feel that here everything works in terms of justice, equality and fair play. How is it that all these nine years of discussion no one has asked these questions? All the argument has been about the people who have rights, asking us – and that is putting it at its best – why do they not have more. In other words, if there were plebiscite when the conditions are satisfied, when it will not create an upset, and when the security of India is not in danger, if we are, by the lack of the conditions that are necessary for a fair settlement, put into the position of handing these unfortunate men who have exercised their freedom into helotry that prevails on the other side, then it would be a sin against the United Nations Charter.

My colleague from Australia later reminded us of very valid examples, as he described them, and very salutary examples. He said that we had recently had a case where we sent out a United Nations force (768th meeting, para 53). It is my

recollection, although I may be wrong, that the representative of Australia did not support that proposition at the time, but that is by the way. It is misleading and it is unfair to us, at any rate, whatever you may think of it yourself, to draw an analogy between the United Nations Emergency Force in which we participate and which is in Egypt and any suggestion of the kind that is now being made. In one case, the territory of Egypt was invaded by France, the United Kingdom and Israel, and there was no question of having to find out about the invasion and the purposes of this Force were twofold, and my Government has insisted that these purposes should remain twofold. The purposes of this Force are described in paragraph 12 of the report of the Secretary-General on the plan for an emergency international United Nations force. In that paragraph it is stated that the functions of the Force are to supervise the cease-fire and to supervise the withdrawal. Is anybody suggesting that a United Nations force should go into the Pakistan-occupied areas in order to supervise their withdrawal, and then to go away? That is not the idea at all. Therefore, it is not possible to draw an analogy between the two cases. In one case, the United Nations Emergency Force had to go to the defence of those who were aggressed against, and in the other case it would go to stand by the aggressor. As Sir Pierson Dixon, with the candour we except of him, has pointed out, that is what Pakistan has asked for and that has been espoused. Any attempt to draw this parallel is, in my humble submission, a challenge to the political intelligence of the member States of the United Nations, because the analogy bears no relation to facts whatsoever. As the film writers would say, such resemblances as there may be are purely coincidental. Therefore, do not let us draw this analogy, which comes ill from the representative of Australia, who initially refused to have anything to do with this business of sending a force to Egypt in order to implement the purposes of the Charter. I will come back to this and say where we stand with regard to the Charter.

We agree in the main with what has been said by the representative of Colombia, who had the advantage of having one of his countrymen on the Commission who spent hours and hours with the Heads of Government and high officials both in Pakistan and in India.

The Question of a Plebiscite

We have circulated documents for your information, and we hope that you have read them. We hope that if you have not yet read them, you will read them in the future. If I may say with respect, I would not feel any sense of umbrage if people did not read them fully, because I myself find it difficult to get from one end of these documents to the other, but a reading of them is necessary.

The representative of Cuba started from a basic problem that was worthy of the great philosopher, Jean-Jacques Rousseau, about the sovereign will of the people. He then went into history and, if I may say so, he misunderstood what I said in the Security Council, but that may have been my fault. I said that the capital of Kashmir, Srinagar, was founded 2,300 years ago. I did not say at that time that

through the millennia this was a separate State. Actually, the history of Kashmir goes back 5,000 years before the Christian era. It comes into more modern history, in the Buddhistic period. After a short period of Buddhist rule, a succession of Hindu dynasties ruled in Kashmir until the end of the twelfth century. Then it came under Muslim rule and was subsequently reconquered by a Muslim emperor, Akbar, of India, and became part of the Indian Empire. For sixty-three years, on account of the row with the English, the Afghans then occupied it. There were difficulties between the Afghans and the British at various times but not now – they are very good friends, and we are happy they are. There are only few episodes in the long history of Kashmir when it had been outside of the mainland of India. My colleague from Pakistan the other day refuted the “purchase” of Kashmir and I gave the answer to it.

The argument of the representative of Cuba is that the accession by the King is not acceptable. With great respect to his legal knowledge, which is very considerable so far as I am concerned – I mean the respect – no other accession would have been valid, and I call as witness the representative of the United Kingdom or his legal experts. Even if the four and a half million people of Kashmir had signed a memorandum saying: “we accede”, on that day in 1947, that accession would not be worth the paper it was written on. It might have political value. It has political value and it has social value. The British Parliament laid down that the accession was to be by the King. This does not mean that we could trick a King into giving an accession against the will of the people. If that is the argument that is in the mind of the representative of Cuba, then I think it a valid argument and I humbly refer him to the answer I made to the Pakistan Foreign Minister in regard to the allegation of fraud. Therefore, there is no question that, over and above that, the first thing we did to seek, and in the end obtain, the consent of the only national movement there was which for twenty-five years has resisted the Maharaja’s rule and the members of the national movement agreed and they head the government today. We agree with the representative of Cuba that we must honour commitments, but we equally submit that the Security Council has an obligation to honour commitments, and commitments are what are in the documents and what is in the spirit of those documents in all the surrounding circumstances.

That takes me to the question of the plebiscite, which has been referred to constantly. It appears to me to be comparatively simple. The resolution of 13 August 1948 was adopted by the Commission at its 40th meeting. I want to submit to you as responsible members representing member States that just because a word appear in a document or a resolution and it is repeated a million times over, it does not add to its legal, political, moral or other values. It is quite true that we have talked about the plebiscite, but what is the place of it in this document? I have read this many times, but I will read it again. Part III of the resolution reads:

“The Government of India and the Government of Pakistan reaffirm their wish” – not their resolve, not their commitment, but their wish – “that

future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement” –here my colleague from Philippines comes in – “upon acceptance of the truce agreement, both Governments agree.” Agree to what? They agree “to enter into consultations with the Commission to determine fair and equitable conditions...” (S/1100, para 75)

We did not say that when a plebiscite was organised we would enter into consultations after it was over. Perhaps it was our mistake that we entered into consultation before because we thought we were going very, very, fast. It may be a lesson for the future, but I submit it is not a reason for misunderstanding the position of my Government in regard to international commitments. We agreed “upon acceptance of the truce agreement . . . to enter into consultations with the Commission.” What for? To determine “fair and equitable conditions.” Now how about this propaganda which has been going on for the last seven or eight years and which shows no sign of abatement and what is more – it is not only aided and abetted – which is inspired by responsible leaders and members of the Government of Pakistan, which is part of their national policy. In those circumstances, I submit to you that we had to create the conditions, that is, the first conditions necessary.

A plebiscite is a peaceful process, and you cannot force this peaceful process. It is like some people using the machinery of democracy in order to destroy it. So, similarly, the word “plebiscite” embodies the great idea of self-determination and it simply is not to be misinterpreted. We stand by part III of the resolution. Two parts have not been satisfied. Our undertaking is to confer in order to find “fair and equitable conditions.” Are conditions equitable when there is a campaign of hatred? Are conditions equitable when the treaty is in the place of an annex? Are conditions equitable when the Pakistan Government both privately and openly says the purpose of its military programme with the United States is in order to arm against India? If I am challenged on this, I will produce the evidence. That is with regard to the plebiscite, so I say with great respect to my friend from Cuba that we are not running away from any conception. But I submit that it is wrong, that it is against international law, that it is against the commitments of the United Nations, that it is against any possibility of the Charter’s being respected and that it is a violation of the dignity and work of those people who believe in the United Nations, to say that just because these words appear somewhere that that is therefore a contract. That would be like the Muslim boy quoting the Koran only in one part. Therefore, that is the position of the plebiscite.

I have been asked why we take up one position in regard to Algeria and another in regard to Kashmir. First of all, in regard to Kashmir, the conditions have been laid down here, a whole plan has been laid down here. We agreed to the principles. By the way, Sir Pierson Dixon also referred to the resolution of 5 January 1949. I should like to refresh his memory. It refers to the principles on which a plebiscite

has to be carried out – if parts I and II of the resolution of 13 August operate. After part I and II then part III begins to function by negotiation. When that is all ready, then there is a plan on the chessboard. You cannot start from the other end. That is how things are.

With regard to Algeria there has been a conquest, and that is not denied by anybody. I do not want to go outside the realm of this discussion, but I did not raise this question. There was a conquest and there was a national movement to replace that conquest. There is no such thing in Kashmir. I told you the other day that the best evidence and the most convincing argument before the Security Council, irrespective of all legal doctrine, would have been if the marauders that came into Kashmir, and later the Pakistan Army, had been welcomed as liberators by the people. They were not. They committed rapine and plunder and there was no question of religion because the Christians and Muslims were equally sufferers. They were not welcomed as liberators by the local populations. So when the representative of Iraq refers to the great brotherhood, he must take this into account. We are also part of great brotherhood, namely, the human brotherhood, and therefore it is not as though the two things were on a par. There may be a great deal of argument in favour of not implementing self-determination in Algeria or implementing it. That is another matter. But the two things are not on all fours.

In regard to the statement of the representative of Cuba there is one other matter which I want to dispose of, and that is the reference to my Prime Minister. I have, both for reasons of propriety and political reasons, the obligation to put everybody right on this matter.

There were two suggestions, one of which I answered at a previous meeting (767th meeting, para 88), apparently without carrying conviction. One was a telegram sent by the Prime Minister early in October 1947 to Mr Liaquat Ali Khan, of whom he was an intimate friend, suggesting that the two countries together should come before the Security Council and that the matter should be settled by plebiscite, by the United Nations and so on. This was long before there was any proof that the Pakistan Army was invading. That was at the time when Pakistan was denying that there was complicity on its part. That was at the time when we had just parted company; and I pointed out that, so far as the political and documentary parts of the problem were concerned, whatever might have been the commitments, if they had been accepted, they were not even escrows; if they had lapsed and, therefore, we started from the Security Council because the letter of 22 December 1947 from my Prime Minister to Liaquat Ali Khan said that nothing had happened and proposed to take our remedy under the Charter of the United Nations. And we came here and said: “We are invaded. In order to protect ourselves we may have to invade Pakistan. We do not want to do so; therefore, please stop them from doing that.”

The second declaration is the one to which the representative of Cuba has kindly given authority. It comes from an organ called "United Press", which is not run by the Indian Government and we have no responsibility for its policy. It was a message that came on 6 February 1957 from Allahabad in which, according to the report, Mr Nehru listed the following conditions for agreeing to plebiscite: withdrawal of Pakistan troops from "occupied Kashmir"; the "legal Government" of Kashmir must take over the entire State. I believe that this message came to the United Nations between four and five o'clock. Between five and six o'clock, thanks to the reputable agency Reuters, we got another version of it, which was published all over the world, and which we have not contradicted, and this was what the Prime Minister said: "We have been charged in certain quarters" – that is, over here – "with having backed out of our commitment to hold a plebiscite in Kashmir. I would like to draw the attention of those who are making this charge against us to the prerequisite condition of the plebiscite. The condition was that Pakistan would withdraw its forces from that part of Kashmir which it occupies. Has Pakistan fulfilled that condition?" Mr Nehru said: "A grave injustice has been done to India in regard to Kashmir. The basic point that Pakistan committed aggression in Kashmir has been ignored altogether." And the representatives around this table have done it this morning. The Prime Minister said: "Kashmir has made tremendous progress in the last nine years and no steps should be taken which would disturb the peace of the State." Outside of all controversy, I ask the Council to believe that that is our overwhelming concern about the re-agitation of a situation which can lead to civil war all the way round and conflicts of a character which I shall describe in a moment.

In view of the time, I shall try to make the remainder of the observations very brief.

Mr Romulo said that I had "admonished" the Security Council (768th meeting, para 107). Normally speaking, I would let this pass, but it is not something which I wish to leave on the record, coming from the distinguished personality who occupied the Chair at that time. I believe this rises from the fact that he was listening to a very long speech, and like everybody else, sometimes he gets tired of it. What did I say? I said that our basic position is the complaint that we brought forth here on 1 January 1948. From that, we have never moved. From that, we did not move when we came here in those days, not with General McNaughton, not with Sir Owen Dixon, not with Mr Graham, not with you, not with anybody in the world. That position we have never moved from. But I went on to say that, at the same time, representatives of States members of the Security Council, calling me before them, could not just regard themselves as Rip Van Winkles, as though nothing had happened here in nine years. In spite of that basic position, I have the responsibility to address myself to the draft resolution before the Council. That puts a totally different complexion upon my admonition. Do I look like the kind of person who would admonish this august body? I leave it to the Council to judge.

We have great confidence, in spite of the present attitude of the Security Council, that when these facts become more and more known – and that is why we keep on bringing the Council's attention to them – representatives will begin to have doubts in that matter.

Statement by Sweden

Now we come to the draft resolution before the Council (S/3787). There were two suggestions made by the President in his capacity as representative of Sweden. I have not referred to the observations made by the representative of Iraq except to say that the presentation he has made does not represent the facts of the situation. It ignores the circumstances but, at the same time, I pay tribute and express my appreciation of his desire to be kindly on the side on which he is not neutral; and that is all I can say. One must stick to the truth even when one wants to be polite. The representative of Sweden, who is President, speaking here said:

“As we see it, there are, in principle, two courses open to us along which progress may be made towards the ultimate goal which, it seems to us, must be an agreement between the parties on a political basis . . .” (Para 39 above)

This is a matter, which I shall have to deal with when I come to the basic position of the Security Council under the terms of the Charter, and particularly Chapter VI. There is no settlement in this matter that is possible except by agreement between the parties; so far as my Government is concerned, we have done everything we can, up till now – but I said “up till now”; we have not written the end of history. We have made a solemn declaration, and we repeat it, that we shall at no time, on any issue, however much it may be against us, refuse to negotiate, refuse to seek conciliation, but we cannot be called upon to surrender our sovereignty beforehand, and we cannot be called upon by the Security Council to forgo the charge of aggression upon our sovereignty. We cannot be called upon to ignore a complaint which we have submitted in terms of the provisions of the Charter.

Mr Romulo said – as was said by someone else the other day – that there were counter-charges (768th meeting, para 104). I submit that there were no counter-charges on Kashmir. There may have been counter-charges on other matters. The Security Council decided not to discuss them for the present, but if it should be decided to discuss them, we would be willing to answer. In regard to Kashmir, so far as I can recollect, it is only paragraph 3 of the document submitted by Pakistan (S/1100, annex 6, document I) that is relevant, and the answer was a denial. It was not even what the lawyers call a traversing of the facts; it was a denial, saying that we had not invaded. That denial was denied afterwards by the Commission, and, therefore, what remains is invasion, and aggression.

When General McNaughton was President of the Council and when Mr Graham and earlier when members of the Commission, whom we did not invite – in fact we did not invite the Commission, but we said, ours is a hospitable country; you can come – came and talked and talked – and in our part of the world it is very rude not to answer people's questions – and asked questions, we answered them. But we also asked some questions ourselves. So, would it have been right for us to come before General McNaughton and to say: we will not talk until you decide this question of aggression? This very Council, with great legitimacy – I may say, with total legitimacy – would have told us that we were being unreasonable. But what could we do? We reserved our position in every document, in every utterance. We reserve our position today; and by reserve, we mean, do not put it on the shelf.

In other words, if the position put forward by General Romulo and, the other day, by Mr Tsiang is to be accepted, it becomes a crime to negotiate, because once a charge of aggression is decided, what is there left to negotiate? We are prepared to negotiate without prejudice to that, and that is what the Commission said all along. Therefore, Mr President, it is in your hands; it is your responsibility to address yourself to this position.

It is easy for me to be dismissed, as one person; you cannot however dismiss the 400 million people in our country when a question of this kind comes before them. This is a problem which has deeply agitated our people, and it is only the strength of our leadership, which is based in the masses, which is based in trust and confidence, that has been able to restrain the kind of excitement which might lead to a hatred which could not be controlled afterwards. It is only that which has prevented them from developing the wrong kind of feeling in regard to certain other countries, which has prevented them from getting into a kind of war fever. The second course suggested, therefore, so far as that is concerned, is one by which my country always stands – indeed, I submit all countries stand committed by it – under the article of the Charter.

There are underlying problems of a legal character. Because I have tried to be precise in regard to the position, because if the accession is complete and legal all these problems become comparatively simple, I have never asked the Security Council to pronounce on these legal issues since from the very beginning our position has been that we cannot ask the Council to do so because it is not a court of law. At the same time, the Council is working in the context of international law and justice and cannot depart from that, and that is why I have pointed it out to you.

The President, speaking as representative of Sweden has thrown out the suggestion that it might be useful to have certain underlying problems of a legal character progressively clarified in order to create better conditions for an agreement. I suppose the real meaning is that a look should be taken at the legal claims which we make and which are basic to our position. If it means nothing

more, in terms of any provisions of the Charter, I believe the President will agree that I am justified in saying that he would want to see this in greater clarity and would want it to have full consideration by our Government and with our legal advisers – indeed, the United Nations would want to do that – for we cannot at any time turn our face against the law. That is our position, whatever the consequences are; that is our position in regard to these suggestions and there it is.

The President went on to say that some legal aspects of the matter might perhaps be referred to the International Court of Justice for an advisory opinion. However, it all depends upon what questions are referred to the court; we ought to have the opportunity to consider them in order to see whether the problem is referred to the court in its necessary ambit and scope. Therefore, so far as the Government of India is concerned at the present moment, we simply say that we do not reject any of these ideas, because if we did we should be doing wrong. You would fall foul of us, and even apart from that we should ourselves feel uneasy in our minds. We are therefore prepared to give consideration to these matters, and indeed the Government of India knows the views of the Swedish Government and is prepared to take them into consideration, but we cannot go into any deep consideration of policy until the general elections are over.

Preamble of the Draft Resolution

That deals with the statements. Now I come to the draft resolution (S/3787) and I will not take very long over it.

The first paragraph of the preamble recalls previous resolutions. It is one of those habits that we have formed, to recall resolutions, but I would like the draftsmen who assist the representatives of the United States and the United Kingdom to have a look at these resolutions. Some of them you can recall as a matter of historical interest, but you cannot implement them. For instance, one of them says that the Commission ought to go to India and Pakistan or something like that; so it is not possible of implementation. This is probably a very obvious instance but there are parts of these resolutions that have been worn out by time.

Therefore, when the representative of the Philippines made a criticism of my Prime Minister's statement – he did not say so, but he implied it – I want to say that we stand by that statement. I had a copy of the first draft of this resolution half an hour after I started speaking and the only alternation which was made in it was to the advantage of Pakistan. Secondly, when I finished speaking that evening I said to the President, who was the representative of the Philippines, that I had then made the part of my statement in order that he need not feel perturbed that some D-day, some zero hour was approaching, not that I finished the argument. In fact, I stated expressly that I had still to argue the case. What is more, those who know the facts of this matter know very well that what my Prime Minister says represents the truth.

Therefore, recalling these resolutions is merely an exercise, the sort of thing that often happens; and my delegation and my Government would find it difficult to understand why the resolution of January 1957 (S/3779) has greater significance than the resolution of 17 January 1948, and I would be glad if the representative of the United Kingdom would tell me. If the Council would insist upon adherence to the resolution of 17 January 1948, we could forget all these other resolutions and I think we would have made a beginning in solving this problem.

On 17 January 1948, the Council asked both parties not to aggravate the situation, not to introduce war material and things of that character. That stands violated. This is what was said:

“The Security Council,

“Having heard statements” –and I remind the representative of the United Kingdom that in those days they said: “having heard statements” –“on the situation in Kashmir from the representatives of the Governments of India and Pakistan,

“Recognising the urgency of the situation” –and then comes the operative part:

“Calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power . . . calculated to improve the situation,” –and *Jehad* is not an instrument of improving the situation; and the calumny and the base words uttered about my Prime Minister and the head of my Government and my country and of our traditions that is going in West Pakistan at the moment is something not in consonance with this –“and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravated the situation;

“And further requests each of those Governments to inform the Council immediately” – I want to repeat this, if I can have the attention of the Council for one moment – “of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under the consideration of the Council...” (*Official Records of the General assembly, Third Session, Supplement No. 2, Chap. 5, sect. C*)

The matter has been under the consideration of the Council from that time until now and Pakistan did not inform the Council that it had introduced troops. I say it acted behind the Security Council’s back and concealed facts from the Security Council and I think all our sins would be washed in the face of that. And I ask my colleague Sir Pierson Dixon why the resolution of 17 January 1948 has less sanctity than any other resolutions. In so far as they are recalled, and if they have any meaning, that is a helpful situation. I say that if the resolution of 17 January

1948 was adhered to by Pakistan, then we would have had the beginning of a solution.

May I preface my next observation by saying that I recognise that I have no part in the draft resolution before the Council (S/3787) either by saying that I support it or that I oppose it because I am not a member of the Security Council, but I believe that I am invited to offer observations.

The second paragraph of the preamble reads:

“Having taken into consideration the statements of the representatives of the Government of India and Pakistan.”

With great respect I would submit that this is a slight overstatement because, although the statements have been heard, the case is so complex and has been argued at such great length, and there are so many documents on the matter and so many cross currents in it, it would be more accurate to say “having heard what we have to say,” this would be nearer the truth and more nearly in conformity with previous resolutions. This gives the impression of a great deal of deliberation on this matter before coming to the next conclusion and I submit that I believe that we would like member Governments, not just one individual in the Security Council, but member Governments, to go into this situation, which is one of the most important situations in the world.

The draft resolution continues:

“Concerned at the lack of progress in settling the dispute.”

This word “dispute” was introduced by the Security Council without our assent. The only two resolutions to which we agree are those of 17 January 1948 and 20 January 1948 and the two resolutions of the Commission. You will find that in these resolutions the word “dispute” does not occur. The word is “situation” – and it is not quibbling with words – we have heard the legal arguments – and law is the essence of civilised language, so we cannot just ignore it – but we definitely think that the introduction of the word “dispute” means a political change.

Sir Gopalaswami Ayyangar, speaking before this Council, said in categorical terms that this is not a dispute over territory – there is no dispute over our territory; the territory is a Constituent State of the Union of India. In the exercise of its sovereignty, for any political reason, it can consent, it can initiate, it can order an act of cession. That is a different question. Therefore, there is no dispute over territory. I submit this frequent reintroduction of the word “dispute” is an attempt on the part of the framers of these resolutions to weight these things against us –because this is a “situation”, it is not a territorial dispute. How can it be a territorial dispute when the sovereignty of Jammu and Kashmir was recognised by the Security Council, when you say neither the Security Council

not the Commission can change it, when you say it is the duty of the Union of India to look after the security of this territory? It can station garrisons on the western and northwestern frontiers to guard the passes that come into India.

I read the next paragraph:

“Considering the importance which it has attached to the demilitarisation of the State of Jammu and Kashmir . . .”

I submit the word “demilitarisation” has a particular connotation. It is not just a plain smite. It means much more. And if you will use the word “demilitarisation” in the context where a party who has no legal, no moral, nor any other title under any semblance of law, is in occupation of the part of a territory, to speak about demilitarisation in regard to that area, is a mockery of justice and of international law. And so far as we are concerned, what the Security Council is doing is to expose our vast territory to the insecurity of a neighbour who is not showing from the west the friendly intentions that we expect. Therefore, “demilitarisation” in terms of counting, in quantum of troops and whether they shoot pistols, or revolvers, or shotguns or machine guns, those problems are not the important problems.

The first element in demilitarisation is the removal of those people who have no business and no title to be present on the soil of Jammu and Kashmir. That is in the 13 August 1948 resolution, that is in the 5 January 1949 resolution, that is in every resolution of the Council. And what is more, that is in every assurance given by Mr Korbel, given by Mr Lozano and given by Mr Huddle – the United States representative who was also Chairman – that irrespective of personalities, those were the assurances given to us, not in secret, not whispered into our ears, but they are part of the public documents which are in the records of the Security Council. If for any reason the Council on a subsequent date gave an assurance to the Pakistan side, which they can interpret in another way, the responsibility does not lie on the heads of the Government of India. Therefore, we would object to this word if we were parties to the resolution. We insist, because this is throwing the whole thing out of its context; that is to say, you are asking the President of the Security Council to do what Mr Graham has been trying to do for five years, what Sir Owen Dixon tried to do, and at the end said that this is not the problem, this is something else which he has not been asked to do – and so on. The whole reference –that clause – I submit is misconceived. It is the wrong context, the wrong thing. We are talking about something that has no real relation. I do not say it is irrelevant. The relevance of it is not essential. That is, there is no essentiality about this because that is not the problem.

The next paragraph reads:

“Nothing that demilitarisation preparatory to the holding of a free and impartial plebiscite under United Nations auspices has not been achieved.”

Now there, I think it should also have been noted that one of the conditions of holding a free and impartial plebiscite is the cessation of religious propaganda. Under our law, which is copied from the British law, at least the essence of it, it is an unlawful practice (and some other legal phraseology, which I have forgotten) to appeal to religion, to say that they are Catholics, therefore they ought to vote for the Catholic candidate; or that they are Protestants, therefore they ought to vote for the Protestant candidate; or that they are Muslim, that they ought to do this; or that they are Hindus and they ought to do that, or the wrath of God would be visited upon them. In any way, to make use of religion in order to obtain a political end in an election in our law is an unlawful practice which would disqualify the person concerned. The holding of a free and impartial plebiscite therefore is possible only when there is the preparatory condition.

Now, I submit to the two representatives who are responsible for the initiating of this draft resolution, is it fair to ask for the adoption of a method, which in its general essence, which in its genesis, which in its purpose is peaceful, but enable it to be surrounded, if not rooted, in hatred? Therefore, until that is cleared away, how can one get anywhere at all; and even with the passing of nine years, it has not been cleared away, and what is more, is being accumulated. I cite the evidence of the statement of the distinguished Foreign Minister who warned the Security Council, who professed in his first speech, in what in effect amounts to an ultimatum. And this campaign of *Jehad* that goes on – we are still in the days of the holy wars.

The next paragraph is the crucial part:

“*Noting* the proposal of the representative of Pakistan for the use of temporary United Nations force in connection with demilitarisation.”

It may be argued that it is right to note anything. There is no crime in stating that something has been said. But when in a resolution something is noted and something is not noted – for example, it has not been noted that the Government of India says that the country has been illegally occupied, that there is an enormous influx, accumulation of arms and forces, that there is hatred propaganda and all the other things I have told you, those things are equal, or even of greater value and they have not been noted. – So this selection, this invidious selection, lends a political importance to it. The Security Council, this august body which is seriously minded, notes something in relation to its value. Therefore, a greater value is placed on this than on other things. It is this suggestion that has come out of “noting the proposal of the representative of Pakistan.” I submit that the proposals ought really to come from the Security Council. That, of course, is a matter for you gentlemen and not for me.

India Will Not Accept Foreign Troops on its Soil

We come to the next paragraph:

“Believing that, in so far as it might contribute towards the achievement of demilitarisation as envisaged in the resolutions of the United Nations Commission for India and Pakistan and towards the pacific settlement of the dispute, the use of such a force would deserve consideration.”

We should like to offer observations on three parts of this paragraph. First we should like to comment on the words “might contribute towards the achievement of demilitarisation.” Facts deny this. How would a United Nations force contribute towards the achievement of demilitarisation when there are forty-five battalions of the “Azad” army on the other side and large number of irregulars and commandos who cannot be traced? What would be the practical size of the United Nations force that goes in there? Would a United Nations force in the conditions of the world at the present time be in a position to disarm any soldier of any other country? I can understand their performing police duties. I can understand their going into a place where we are sure they would not be fired at. But would you say that in the conditions that obtain in these areas any United Nations force that you can get to go would be able to achieve demilitarisation? Would they be able to exercise the degree of supervision that was necessary? All this is on the basis that some agreement has been reached about it.

Furthermore, I would say that it is not necessary to have a United Nations force to achieve demilitarisation. All that has to be done is for the Pakistan Army to withdraw, in order to create conditions of security, for it to give an international guarantee that it will not move out of its cantonments beyond the space which can be permitted with security; and for the Indian Army in Kashmir, which is in a constituent part of its territory, to be deployed only in conditions of peace. That is what we have done. Therefore, the question of sending somebody to disarm does not arise.

With great respect I wish to say we have not in our country attuned our minds to the conception of any foreign forces, United Nations or otherwise, disarming our soldiers or disbanding them. That is a function of our sovereign Government. So far as we are concerned, if we gave an undertaking to withdraw them, we would withdraw them, as indeed we have done. We have, without any commitment, withdrawn very large numbers of troops from this area.

In this connection, I would like to contradict what was said by the Foreign Minister of Pakistan the other day. It is a statement of the same character as I contradicted the other day, which he has not repeated afterwards, that the Government of India is concentrating troops on the Indo-Pakistan border. This is an entirely untrue statement, and I am authorised by my Government to deny it. There has been no addition of military strength on the Punjab frontier or any other Indo-Pakistan frontier. The Indian Army moves along according to the normal routine of its manoeuvres, of its practice. There has been no accumulation of

forces anywhere, and no addition to their strength. This is, I believe, a story somebody picked up somewhere, which was printed in the newspapers and was believed.

The second idea in this is “demilitarisation as envisaged in the resolutions of the United Nations Commission.” With great respect to the authors of the draft resolution, I submit that this is a misstatement of fact. What is envisaged in the resolutions is the disbanding and disarming of “Azad” forces, the total withdrawal of the Pakistan Army and, at a subsequent stage when that is achieved, the withdrawal of the bulk of the Indian forces. It is quite true that we have discussed at various times a simultaneous synchronised operation. I submit, however, that as this has not been accepted, it ceases to have value. It cannot have. Hereafter, my Government will not agree to any commitment hanging over its head because we find that we have been sufferers in this. There is no room not to be one’s guard. Therefore, we submit that we have no commitments in this direction apart from what is in the resolution of 13 August 1948. Consequently, the second idea is not strictly accurate.

The last part is the most important. It says, “deserve consideration.” I ask my colleague from the United Kingdom, who is a scholar of great repute, to explain to me what that means, apart from saying that this has merit. This is the Security Council which is composed of member Governments of the United Nations, and they make a proposition which not only does not deserve consideration but which is contrary to the Charter, contrary to the friendship that exists between my country and the United States on the one hand, and my country and the United Kingdom on the other. It is contrary to all the canons of international behaviour that must be respected. Therefore, it does not deserve consideration.

I say the proposal is contrary to the Charter because the United Nations has no authority to place any soldiers in our territory under Chapter VI, and I want to make this perfectly clear. In this connection, when I say “our territory”, any soldier that sets foot in the Pakistan area of the State of Jammu and Kashmir is violating the sovereignty of the Indian Union because, according to your decisions, according to the commitments we have with you, it is part of Jammu and Kashmir. So it is not as though you can make arrangement with Pakistan and feel that you have not violated any law. It is a violation of the Charter.

The other day the Secretary-General, in another connection, pointed out that it was only under Chapter VII that troops could be placed anywhere, without consent. Now, someone said that this consent should be forthcoming. I have no desire to sound unco-operative or even worse. The Government of India will in no circumstances permit foreign troops on its soil. That is a categorical statement I am asked by my Government to make to this Council. We will in no circumstances in this context permit the stationing of foreign troops on our soil. The only condition on which we shall have our troops go on foreign soil, as we

told the Secretary-General publicly and privately, or on which we shall accept foreign troops ourselves is in pursuance of the Charter.

The Security Council is asking us, not deliberately, to accept a situation, which, in our view, is contrary to the provisions of the Charter, a violation of our sovereignty and calculated to disturb the peace. That is the legal part of it.

More than that, I would ask the representative of the United Kingdom, who has much more access to information about India than anyone else because of past connections with us and many present connections, to cogitate on the situation. What volume of troops would be required to keep order in the State of Jammu and Kashmir on both sides when our security troops are withdrawn, considering the vast amount of opposition there is even to the past resolutions of the Security Council, the enormous amount of public demonstrations of disapproval and public anger and the intensity of the feeling in the country with regard to this matter? On our side, how many troops would be required by the United Nations, assuming there were no legal or other difficulties? Equally, the moment this is published in Pakistan as a great victory for their side, there will be enormous hopes aroused and all these forces, about which I read to you – the man who asserts he will do it by force – will be alerted. Therefore, any conception that this is deserving of consideration – I suggest that this is a chimerical proposition, an impractical proposition, a proposition that goes against the purposes of the Charter and the purposes of settlement.

There is a statement about the people of Kashmir – that is to say, the part that is not taken over by the enemy. This comes from authority which will appeal to my colleague from Australia. It is a conservative paper which I believe has had very adverse comments on our policy. It is the *Sydney Morning Herald*, and its correspondent Mr Morrisby is now in Kashmir. This is what he wrote and said to the people on 11 February 1957, that is to say, a fortnight after 26 January. (This report is partly in direct narration and partly in indirect narration.):

“ ‘The people of Kashmir have given their full support to the State’s new Constitution, as this Constitution enshrines the sovereign will and has, therefore, special significance for all of them,’ said Edwin Morrisby of the *Sydney Morning Herald* of Australia in Srinagar, 7 February 1957, in an informal meeting with the local newspapermen. Morrisby, who was giving his impressions of four days’ tour of Kashmir, added that the State enjoyed semi-autonomous status in the Indian Republic, and so the people enjoyed more freedom than in other States of India. The enthusiasm with which the people had rallied to the call for active participation in the implementation of development plans ‘provides irrefutable evidence of the popularity of the Government and their leaders’, he said.”

Then there is another quotation from Mr Morrisby:

“ ‘They have made it clear that they would under no circumstances tolerate any attempt to disturb the peace and stability of the State which has been achieved after great trials and sufferings,’ he added.

“Morrisby who went to some remotest corners of Kashmir valley said: ‘As I told you the other day, there are no restrictions on foreign travellers to Kashmir, apart from the fact that they must be able to pay their way.’ He went on to say: ‘There is nothing abnormal in the State. The people are quite contented and busy in their business of life, just like in the rest of India.’”

We did not ask Mr Morrisby to write that. As we say, this is not an Indian newspaperman. I usually do not quote newspapers, because, after all, they are not authoritative in this sense, but this is the latest opinion we have received from an independent source and it deserves consideration.

On this point about deserving consideration, I should like to request the representatives who are responsible for this draft resolution to address their minds to the history of this proposition. This suggestion was first made as early as 1948. If representatives will look at the transactions at that time, I would refer to the statement made by the Minister for Foreign Affairs of Pakistan, Sir Muhammad Zafrulla Khan, in a memorandum dated 19 August 1948 which was published in the first interim report of the United Nations Commission for India and Pakistan. I shall read the relevant part:

“In particular, the Pakistan Government would be glad to know whether the Commission intend to secure the services of an international or neutral force for this purpose and, if so, what the strength of such a force would be.” (S/1100, annex 26, appendix, para 5)

So, as far as Pakistan is concerned, it is an old suggestion which has been rejected time after time. The Commission’s reply was this:

“In drawing up the resolution of 13 August 1948, the Commission did not and could not proceed on the assumption that one or the other party would violate the truce. The implementation of the resolution presuppose good faith and co-operation between the two parties.” – That fact is still true because without that we could not have any implementation.

“As the Government of Pakistan is aware, the United Nations does not have at its disposal an international force. The use of neutral force has not been contemplated by the Commission. However, the Government of Pakistan will have noted that the resolution provides for neutral military observers...” (Ibid., annex 27, appendix, para 5)

The United Kingdom and the United States, if I say so without any disrespect, are not original in this suggestion. They came out with this on 21 February 1951. The joint effort in relation to us is of long standing in this matter. In the United States and United Kingdom draft resolution of 21 February 1951, contained in document S/2017, this is said:

“4 *Authorises* the United Nations Representative to take into account in his discussions” – the same thing as now – “with the two Governments and in considering the arrangements for demilitarisation and for the holding of the plebiscite: . . .

“(ii) The possibility” – it was less at that time – “that any forces required for the purpose” – at that time it did not say that it must be one; it only said: “If you want someone we shall send someone.” – “of facilitating demilitarisation and the holding of the plebiscite might be provided from member States of the United Nations or raised locally.” (S/2017)

I remember that the same suggestion was made by the Prime Minister of Australia in informal conversations. Our reply was made by Sir Benegal Rau, a man whose memory is revered and who cannot be accused of any overstatement of any sentiment:

“We are wholly unable to accept any entry of foreign troops in the State or in any other part of India.” – That was in 1951, and we repeat that. – “In view of the provision made by the resolutions of August 1948 and January 1949, there is no occasion for the use of foreign troops or of special local levies recruited by outside agency. Nor, in view of the detailed provisions contained in the resolution of January 1949 to ensure a fair and impartial plebiscite, can we accept a suppression of the lawful government of the State or any interference with its normal functions.” (533rd meeting, para 40)

He was asked about it again a few meeting later, and Sir Benegal Rau’s answer appears in the report of the 536th meeting held on 9 March 1951:

“My friend has asked whether India agrees to the principle of having United Nations forces in Kashmir. I have already stated India’s position in this matter and given our reasons for it: first, we are wholly unable to accept any entry of foreign troops in view of the provisions made by the resolutions of August 1948 and January 1949, there is no occasion for the use of foreign troops...” (536th meeting, para 26)

Then something happened which I hope will happen this time also. On 21 March 1951 the United Kingdom and the United States dropped this suggestion in their revised resolution (S/2017/Rev.1). The same proposal was revived by Mr Graham in India, and this was contained in his second report to the Security Council

(S/2448), in paragraph 5(c) of the questionnaire addressed to us. This was one of the questions:

“If not, is the Indian Government ready to accept forces to be provided by the United Nations in order to safeguard the security of and to maintain law and order in the whole State of Jammu and Kashmir as long as the United Nations in consultation with the Governments of India and Pakistan, deems necessary?” (S/2448, annex 3, page 17)

Our answer, given by the Prime Minister at that time, was this:

“As regards the suggestion for the bringing of United Nations forces into the State, it has been made clear more than once on behalf of the Government of India that the replacement of Indian security forces by foreign troops, howsoever constituted, can under no circumstances be accepted. We do not understand why this suggestion is being repeated.” (Ibid., annex 6, para 10)

With very great respect, I repeat that last sentence of Prime Minister: “We do not understand why this suggestion is being repeated.”

Then I have a paragraph from my old friend, Sir Gladwyn Jebb, which I shall not read, because he is not here. But someone in the Council suggested that Sir Gladwyn Jebb’s observation was rather nostalgic, in a way of getting the troops back, but I do not share that view, and so I shall leave it.

On this draft resolution – and I ask Sir Pierson Dixon not to take this in the wrong way – our minds, not only mine but also those of peoples sitting around here, go back to those 300 years from Clive to Wellesly, from Wellesly to Dalhousie, from Dalhousie to Canning to Minto – referring to the partition of India – from Minto to Linlithgow. During all that period we have served to liberate our land from the presence of foreign feet on its soil with arms.

The Security Council dare not ask us to accept the introduction of foreign troops on our scared territory. Therefore, the history of our country being what it is, one of the conditions we have always asked was that there should be no foreign troops on our soil. If this brings back the sentiments to us and even to those of us who are comparatively uninstructed – I say this perhaps with lack of modesty – what kind of sentiments will come back to the masses of our people? Therefore, any suggestion of this kind would be unwelcome in India.

I wish to add, before I leave that point, that the introduction of United Nations forces, which presumably would be constituted of volunteers of members States, unless the United Nations proposes to form a foreign legion, would in my submission, not only be a violation of the Charter; it would be a violation by each member State that contributes troops, because we have bilateral relations with

them. If a member State were to send its troops to our country in violation of the Charter, then they are not protected by the Charter. Their protection disappears on account of the illegality.

I come now to the operative paragraphs of the draft resolution. I shall make this very brief. As regards the representative of Sweden, who is the present President of the Security Council, we have already expressed our views. Perhaps we should not say any more, because it might embarrass him. Someone might suggest that the President of the Security Council is too well liked by India. It is true that he was the Minister of his country in India, but, at the same time, I believe that he was Minister in Pakistan. I note that he is indicating that he was not, so I may be wrong on that. At any rate, so far as we are concerned, whether one has been to India or not, our Government would never refuse hospitality to anyone who comes from the United Nations, or indeed anyone who is satisfied with the kind of modest hospitality that we can offer. But when it comes to discussion of propositions, we have to look at what he has. However, in the general context of never declining conciliation, in that, India will not be found wanting.

This draft resolution, in our submission, is totally vitiated by its preamble and by its introduction of United Nations forces. I would ask the United Kingdom and the United States to consider that, in the way in which they have presented their proposal, they have established what a lawyer would call a *prima facie* case, that is they have already given them a good certificate – it is a *laissez-passer* for this matter. Of course it could be argued that it deserves consideration by the Government of India. That is a possible explanation. But I have given the answer: we have considered it for many years and we have rejected it. Therefore, so far as that is concerned, the draft resolution will be of no value. Secondly, it will not meet the purposes for which it is required.

Is the Attitude of the United Kingdom Impartial?

Sir Pierson Dixon, with characteristic sincerity, has asked us to believe that his country was a common friend of ours – and I have forgotten the fact that he forgot us in the numbering the other day, and I accept that in the way it is offered. But I would be failing in my duty if I did not convey to the Security Council and to him that the developments of the last few days and the promotion of the Pakistan proposal, either by or with the assistance of the United Kingdom, have not served to soothe the difficult relations that have arisen as a result of many other matters. My Government will not throw the baby out with the bath water. We are a conservative people, even though all of us do not belong to the Conservative Party. We are a people who are attached to the peoples of the United Kingdom by many ties. But the basis of all that is mutual respect, and once that disappears other things become difficult.

I would be failing in my duty and it would be inaccurate to suggest that the reception of this idea on the other side is in the same way. Here is a report of the

view of the Prime Minister of Pakistan. As everyone knows, he has sent his congratulations and his appreciation and gratitude to the representative of the United States. After that he stated – this is a report taken from the newspaper *Dawn*, and I do not say that it is an official paper; it was founded by the founder of Pakistan and is considered to be the leading paper – I hope I am not making invidious distinctions in Karachi:

“The Prime Minister of Pakistan paid a tribute to the role played by the United Kingdom in the Security Council deliberations, and said that the United Kingdom had lent a great deal of assistance in the Kashmir question, which was again responsible for the support received from the United States.”

I am afraid that this is not very flattering to the United States, but I am not reading out my opinions; this is the opinion of the Prime Minister of Pakistan. Of course, it may well be that he is so pleased with the matter that he attributes reasons in other ways. The United Kingdom is entirely free in this matter to take whatever position it wishes as a sovereign nation and as a permanent member of the Security Council. But so much has been made in this debate of our being two peas in a pod, of our common and equal relations, and so on.

I was a High Commissioner in London for five years and I had a great deal to do with the relations of the United Kingdom and India. I also had a great deal to do with our military organisation, as far as it concerned the United Kingdom, in connection with supplies and so on. It would take much more than normal circumstances for me to believe that there has been any occasion on which we have been objects of any particularly favourable treatment. We never asked for it and we never got it. But we have always been treated kindly, courteously and with respect, and I am sure that this position will continue.

But I would beg of Sir Pierson Dixon not to ask us to convey the view to our people that the attitude of the United Kingdom on the draft resolution is one of impartiality as between Pakistan and India. This does not mean that the United Kingdom is not impartial on the question according to its own lights. As far as we can see it, however, it would not be so regarded by our public opinion.

Bitter Pill Coated with Jam

I express my thanks to the Council for the courteous way in which this difficult problem has been presented. This very bitter pill has been coated with a lot of jam, but nevertheless the pill is very bad. It is not only bitter, it is poisonous – sheer poison so far as peace is concerned.

Concern was expressed in the Security Council by the representative of Cuba for the people of Kashmir. My Prime Minister stated the same thing. The people of Kashmir do not necessarily have to be separated from the people of India for this.

It is their future; it is their economic and political stability, their rights of freedom and their hopes of the future. They have waited for a long time to have their difficulties settled and they have taken things into their own hands. Any attempt to interfere in this or not to allow this question to be solved by direct negotiation between our two people in conditions in which Pakistan and India can mutually respect and trust each other, would be wrong. That cannot be done by resolutions of the Security Council or by resolutions of any other organ. That is a matter to which we have to make our contribution; I say with equal respect that Pakistan has to make its contribution in a greater measure to make up for its defaults of the past.

The first element would be to call off the dogs of hatred, the campaign of hatred. Our country will not tolerate threats and we shall not sit down under them. My Prime Minister stated yesterday that if it came to that, we would perform our duty under the Charter of the United Nations, that is: defend the soil of our country. We are not cowed down by these threats, nor are we going to fall a victim to them by creating a war atmosphere in our country. We reject the attempt to introduce war elements in the way of a United Nations force, following upon the military pacts and other apparatus on our frontiers, which have extended the whole realm of the "cold war" right into the heart of our country.

Will you say, Mr President, that a responsible Government like ours does not have the primary duty for the security of the country, which in the last 800 years or so has been time after time invaded through the northwestern passes, and which for 300 years has lain at the feet of the conqueror? Are these not the primary duties that we owe to the Council and to ourselves? Or are we to be intimidated by the Press propaganda, calling us an immoral people? We are the judges of morality. Morality is not a matter of voting. You cannot vote people into morality. If we acted against international morality, that would be on our conscience and the action would show.

India pleads not guilty and denies all charges of any attempt at violation. It begs of the representative of the United Kingdom not to throw aspersions upon our determination to observe these obligations. It begs of the Security Council to take into account that if we have any engagements, those engagements are conditional. They are the foundation upon which the commitment is built. No part I, then no part II, no part I and II then no part III – that is how it is. Therefore, those conditions are fundamental.

Therefore, if we have addressed ourselves to this matter at length, it is not because we want to win a resolution or to ask you to accept or reject a resolution. This is a time of great political excitement and activity, when we have this barrage of propaganda from the northwest – thank God, not from the northeast – and all these misstatements of fact about concentrations of the Indian Army. I ask you: how do we concentrate these armies without having to pay for them? We have a parliament, we have a budget – we have to find the money. Where do we get the

extra troops? What is more, there are observers on the cease-fire line: if we concentrated troops, they would know it and they would report to the Secretary – General.

Therefore, we cannot proceed in that context. I beg of you not to take a step which will aggravate the situation. There is always room for good men, men of wisdom, to find ways and means. But these are not the ways. It is implied that we are wriggling out of a commitment. Newspapers are led to believe that India is backing out of a commitment that was made, and the world is not told the truth – the simple truth – that must be accepted by every member of the United Nations. How did Pakistan get into Kashmir? There is only one way that she got in, and that was by invasion. And is there anywhere in the Charter any provision for exercising by the use of arms a right over a territory over which a country has no claim – over which it may establish one in the future, but over which it now has no claim?

I submit that after nine years there is a bounden duty lying at the door of the Security Council to look at the resolution of 17 January 1948 and subsequent resolutions and the concealment of facts, not only when the Commission went there but subsequently, time after time. The accumulation of arms today and the continuous concealment of the increase in armed strength, in the air and on the ground and everywhere – these are not only violations of Charter, but they are a threat. And those threats do not come from us. We, as a country, have given evidence of our loyalty to the Charter. With our meagre resources, we have contributed to the safeguarding of peace. In the course of doing that, we have incurred hostility from various sides.

Without introducing any elements of controversy, I should like to conclude on this note: my country has deliberately chosen the path of an independent foreign policy. No pressure will elbow us into an alignment in one direction or another. We serve our people and the cause of international peace as enshrined in the Charter of the United Nations.

20 February 1957³

I would like, first of all, to express my deep regret that I may have contributed to the prolongation of the proceedings of the Security Council by my inability to be present here at the last meeting. I have done the best I can to meet the convenience of the Council and the necessities of the case by coming to the meeting this morning. I also would like to express my regret to the Foreign Minister of Pakistan for not having had the privilege of listening to his observations in person but I have read them with great care.

On behalf of my Government I have intervened in this debate on three different occasions and made statements, which go into considerable detail, all of which my Government regards as essential and relevant. The fact that the Security Council has given it the attention it has, is proof of its importance. I have read the nearly sixty pages of the Foreign Minister of Pakistan's statement and if I were going to take this on the basis of answering it paragraph by paragraph and dealing with the accusations and allegations, it would take another lengthy statement. I am sure, it would not be the wish of the Security Council that I should do so. And without in any way adopting the tenor of that speech, I would like to say that I have no intention of answering the personal attacks and reflections upon my country contained in it, nor have I any intention of asking the Council to consider certain expressions used, and the reference to certain fables and so on, which my Punjabi friends would say are not in good taste and therefore I will not touch on them.

At the same time, since, so far as the Government of India is concerned, its position has been affected in this matter on several occasions by allowing things to pass without an attempt to place them on record, I propose to take only such categories of points that have been raised and refer to the total misstatements of fact, and I have a responsibility to the Government of India and to this Council to correct these misstatements because they affect the relations between our two countries, the status of this Council and the peace of the world. These misstatements are an attempt to confuse the issue. It would be wrong for me to say they reflect any confusion in the mind of the author – that would be impolite.

Misstatements of Fact

The first of these is to ridicule the idea that the Government of India has repeatedly referred to the facts of accession, aggression, sovereignty and such other matters; and my distinguished colleague found these words – I will not say offensive – rather boring. But they are the basis of the problem. Of course if you get the basis out of the way then you can do what you like with it in your own direction. But that is the basis of the problem. It was the basis of the problem

³ Speech in reply to Pakistan statement at previous meeting, *Official Records of the Security Council*, Twelfth year, 772nd meeting, pages 1-31.

when we came here; it has continued to be the basis of the problem at every meeting of the Commission, at every meeting of the Council, in every assurance that has been given to the Government of India – which was known to the Government of Pakistan publicly – and therefore we make no apologies for this. And what is more, the Government of India will not resign from its fundamental position: that Kashmir – until something else may happen, as I said before – is an integral part of the Union of India by its Constitution, by what it has derived from the British Parliament, by the fact of international law and – if I may say so without going into legal argument – I believe the British Government has the greatest experience in this matter in its relations with Portugal. Any municipal law which is generally accepted in other parts of the world attains the status of international law even if it is not incorporated. Here is a situation which is common to great parts of systems of parliamentary government, where we, as a successor State, inherited our status, our functions and our power by parliamentary legislation and by authority conferred by the British Parliament accepted by two sides. That has been the basis of our position from the beginning. I do not want to elaborate this because I have gone into it in great detail.

If I correct misstatements of facts, it is only because the Security Council should be aware that on behalf of the Government of India no statement – and I say this without qualification – has been made before the Council which is not supported by documentary evidence and if any statement is challenged we are prepared, if we are wrong, to withdraw it, but there will be no occasion for doing so.

Now we did make a point that Pakistan delayed its acceptance of the 13 August 1948 (S/1100, para 75) resolution, not in order to make a point of chronology but because it was that delay which enabled Pakistan to make the military advances that it hoped to make. And in the meantime, between 13 August 1948 and 5 January 1949, many things happened and it had rejected the resolution, and the Commission says so. The Foreign Minister tells us that this is not the case. He says: “We accepted it a little later; we did the same as the others.” Let me read to you what he said:

“It is very significant to note here that whereas Pakistan took a little time, a month or two” – a month or two is from August to December – “in asking for clarifications and then accepting, along with India, the resolution in *toto*, Mr Krishna Menon tried to create trouble because of this two or three months delay.” (770th meeting, para 9)

With great respect, what I do here is not the concern of the Foreign Minister of Pakistan. I am not a subject or a citizen of Pakistan; I represent my Government and I wish in the future he would be a little more careful in making references to me.

What are the facts? The facts are – and this refers to the 13 August 1948 resolution – that Pakistan took a long time. Pakistan made a reply fairly soon, but

this was a reply not of acceptance but a request for clarification. The Commission said the reply had the character of a rejection. This is what the Commission said:

“The Commission observes with regret that the Government of Pakistan has been unable to accept the resolution” – that is, the resolution of 13 August 1948; these are not my words – “without attaching certain conditions beyond the compass of this resolution, thereby making impossible an immediate cease-fire and the beginning of fruitful negotiations between the two Governments and the Commission to bring about a peaceful and final settlement of the situation in the State of Jammu and Kashmir.” (S/1100, para 108)

There was no question of Pakistan accepting the 13 August resolution. It rejected it; and it rejected it for the simple reason that it did not want a cease-fire at that time. This is not a question of chronology only. It is a question of the reasons why this was brought about. Therefore, first of all, the facts are not as stated, and it is incorrect for the Foreign Minister of Pakistan to suggest that we have misquoted anything or misrepresented his position. We rely on the Commission’s reports.

Assurances Given to India

Now, the next point I want to deal with, not in detail, because there is not enough time, is with regard to what I call “assurances.” Here I would request the members of the Security Council to study the documents which are before them; they will have the time to do so, I hope. Now the assurances that are given to India are of a categorical character, that is to say, the Prime Minister asked certain questions. “Is this ‘a, b, c’?” This is our understanding, ‘x, y, z.’ Do you agree?” And the Commission said, “Our interpretation corresponds” – whether it be Mr Korbel or Mr Lozano; they give a categorical statement. Therefore, there is a query and an answer which makes a complete affirmation. That is the position with regard to the assurances given to India. These assurances are part of the documents of the Security Council. They are the assurances given by the Commission, whether it be given by the Chairman or not. The assurances given to Pakistan were, I believe, with two exceptions, of an entirely different character. The Pakistan Government asked certain questions. And the Commission did not say: “We agree with this” or make certain interpretations. It did not say: “We agree with this.” It said: “We do not agree with this” or “We mean something else.”

Now the most characteristic example of this is the one to which the distinguished representative of, I believe it was the United Kingdom or the United States, I forgot which one, referred to the other day, about the synchronisation of withdrawal. Now, the Commission told Pakistan that, “What we mean by synchronisation is very different from what you mean by synchronisation.” Now, I do not call that an assurance. In an assurance the two pieces must fit together. In our case, they did. Every one of our assurances are of this character. And my

submission is that so far as assurances are given to Pakistan we can only call them so-called assurances.

Secondly, the assurances given to us were published; they are not secret. Pakistan accepted the two resolutions after those assurances were known. The Government of India cannot accept the position that one read these documents separately from the resolutions of the United Nations Commission for India and Pakistan, which were accepted, and the assurances which were endorsed by the Security Council.

Then we come to another aspect which is very important. I have no personal feelings about this matter, but Mr Noon accused me of misinterpreting the paragraph in the resolution which refers to the truce lines (770th meeting, paras 17ff.). This has reference to part II, section B, paragraph 2, of the resolution, which reads as follows:

“Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order...” (S/1100, para 75)

We made the point that this was part of the agreement that was reached, that it was the responsibility of the Government of India for the security of the whole State. It has to go to the assistance of the local authorities. The “local authorities” was the name used exclusively for the entities in the occupied area. Subject to this, in the State of Jammu and Kashmir, the Indian Government had to maintain its forces within the lines existing at the moment of the cease-fire.

Now, the distinguished Foreign Minister tells us that these lines – he used the plural – refer to different cease-fire lines (770th meeting, para 19). I refer the Security Council to its own map. This is the map, which unfortunately does not have a page number, but it appears at the end of the third interim report of the Commission (See *Official Records of the Security Council*, Fourth year, Supplement No. 7, document S/1430/Add. 2). I do not know whether anybody can see it [indicating], that is the cease-fire line. There is only one line. There are not two cease-fire lines. I have behind me the military attaché of the delegation of India to the United Nations who spent three years in Kashmir in the campaign. What is more he has spent the whole of his military life in the Punjab – the area we are referring to. The lines that are referred to are the battle lines, the disposition of forces as they were then. There can be no other lines. There was only one cease-fire line. Does the Security Council believe that after all these months of discussion the Commission would have put in here a plural which has no meaning? Would the Commission have repeatedly stated the Government of Jammu and Kashmir, the Government of the whole State as being local authorities? The “local authorities,” as I have pointed out, are the words used in

relation to the occupied area. Therefore, I do not propose to go into all the dissertations in the Oxford dictionary. The meaning is very clear. At that time we were thinking in terms of a quick cease-fire. So far as we are concerned, there has been no attempt to mislead the Council. We have never misled the Council and we do not intend to do so. If our case is bad at any point we are prepared to accept that decision. There is only one cease-fire line, which therefore establishes the position.

What is more, later on, Mr Korbelt, who was Chairman of the Commission, said that the responsibility for law and order, which includes security, is that of the Government of India. This is another part of the assurances which are in your documents, so you cannot get away from that one.

Illegal Annexation of Part of Kashmir by Pakistan

We come next to the question of incorporation. The Foreign Minister of Pakistan was surprised that we brought this matter up just now. Though he said that I - presumably the Government of India - make trouble, we do not chase trouble. We know that *de facto* this territory has been under the authority of Pakistan since the cease-fire and the deterioration of the situation, since it disregarded the injunctions of the Security Council and acted as though to reap the fruits of invasion. But it was only when Pakistan took an overt illegal action that the Indian Parliament sat up and took notice. It was not as though the Government made this difficulty. The Indian Parliament naturally turned around and asked: how is it that a neighbour State has a right to part of a territory that, under the Indian Constitution, is Indian? No country represented here would permit that. Pakistan accepted Chitral's accession, which it had no right to do, because Chitral had no right to accede as it was only a feudatory State. There is all this reference to how the people of Chitral will vote. You know that it is a very dangerous thing for a gentleman to come here and tell us how people are going to vote, because that knocks the bottom out of free election, if anybody announces how people will vote before the vote is taken. That is why we did not bring up Chitral until the Pakistan Constitution was enacted.

Then, the representative of Pakistan informed the Council - I will try to make this as brief as I can - that the incorporation of Kashmir is provided for in Article 203 of the Constitution of Pakistan (770th meeting, para 25). There it says that when the issue is decided, Kashmir shall become part of Pakistan. My submission is that that reference is to the part of Kashmir which it does not have. That is what article 203 is for. The present thing is covered by Article 1, clause (2), sub-clause (c), of the Constitution of Pakistan. I think I circulated it. I am speaking from memory. I believe it definitely says that every area under Pakistan administration is part of the State of Pakistan. And this area is under Pakistan's administration - so it is *de facto* and this has been stated by the Commission. What is more, it is administered by Pakistan. There is a Minister of Kashmir Affairs. There is no question that this is under Pakistan administration.

If it is contended, as it is sought to be implied in a later paragraph, that we cannot ask these people to have elections because they are independent, does the Security Council believe that these people are capable of raising forty-five battalions of artillery and infantry with modern equipment, part of which was supplied to Pakistan itself by foreign countries? Are they capable of bringing these armies to that level? What is more, there is a submission made by their own administration, not ours, which the Pakistan Government regards as the national movement in the “Azad” area, their memorandum to the Constituent Assembly of Pakistan (S/PV 762/Add.1, annex III, sect. I), complaining about the way they are being treated. The phrase, I believe, is that they cannot even appoint a peon –peon means a porter, a messenger, something of that kind – in “Azad” Kashmir. That is the position about incorporation.

Then there is a reference in three different places which is very vital to us in regard to what we consider as the essential in any kind of election or plebiscite – that is, freedom from religious propaganda. That is to say, no one shall be subjected to the threat or to the fear that he will suffer disabilities in another world if he votes in this way, that way or the other way. This is not only against the character of a secular State, but the whole conception of the United Nations. It is embodied in our various declarations, and I quoted them. The Foreign Minister of Pakistan said that the Government of India can claim no credit for this, which was done by the British Government in 1920. Well, the British Government did a lot of good things as well as a lot of evil things. They did a lot of good things and when we adopted them they became ours. But in fact, that is not the case. The wording of the election law I read out to you is our own. I am not sure that the British wording was not better phrased, but here it was ours. However, that is not the main point. The main point is that I am surprised and rather worried about the fact that the Foreign Minister of Pakistan made a difference, a distinction – and I do hope that some of his very trusted friends will listen to this – which either the United States or the United Kingdom has not made in any plebiscite for over thirty years – between an election and a plebiscite (770th meeting, para 32). He suggests that it is right in an election not to appeal to these things, but that in a plebiscite you can appeal to anything. If that is so, then we know where we are.

The Resolution of 5 January 1949

The next point to which I want to refer is the charge levelled against us in regard to the 5 January 1949 resolution (S/1196, para 15). I will state on behalf of my Government that the 5 January 1949 resolution elaborates part III of the resolution of 13 August 1948. It is not a separate document or a separate agreement. After five months of negotiation, the Commission said: “If part I and part II are observed, we will then come to part III. Then the two Governments confer. This is a plan upon which you can work.” I think nobody put it better than the representative of Colombia, whose speech I read: “it is not enough to draw up a contract: it has to be signed by both parties.” (771st meeting, para 11). Here,

however, it goes farther than that. This is merely a working plan. It is like an architect's blueprint. If all the blueprints made by architects were buildings, then I am afraid the world would be overbuilt. That is the position.

I want to go back to the Commission. The Commission talks about the 5 January 1949 resolution. Mr Lozano, who was chairman of the Commission, makes a reference to this which is contained in the third interim report of the United Nations Commission for India and Pakistan:

“Mr Lozano explained that the proposals did not supersede part III of the resolution of 13 August, but were an elaboration on it” – that is exactly what the Government of India said - “They did, however, take priority over the consideration of alternative methods...”

That is to say, the Government of India has suggested that while it is true we are discussing plebiscite, if we want a settlement, why do we not consider everything else? Therefore, Mr Lozano said in effect, “Let us get through with this plebiscite business and see whether we cannot do it in this way. If we cannot do it in this way, we will do it in some other way.” The statement of Mr Lozano continues as follows:

“...and every effort had to be made towards putting these proposals into effect. It was in this connection that Mr Lozano expressed the view that if the Plebiscite Administrator should find a plebiscite impossible for “technical or practical reasons,” he or the Commission would then recommend to the Security Council a solution different from that of a plebiscite and acceptable to the Governments of India and Pakistan.

This makes it quite clear that the 5 January 1949 resolution has no life. I think that is the only way to put it. It is inanimate without part III of the 13 August 1948 resolution. The 13 August 1948 resolution has the character I have mentioned to you. It is an obligation upon us, after parts I and II are performed, after law and order is restored, to confer with the other side about the fair means of plebiscite. Now, how can you get away from that?

My colleague tells me in private that this is against that, and that is against that. I want them to answer this question. Just because one promises to discuss a plan, does it mean that one agrees to the principles of it? No. We said: “If the plebiscite comes, we shall do it this way, that way or the other way.”

Great play has been made both by the Foreign Minister of Pakistan and by his friends of the fact that the first paragraph of the 5 January 1949 resolution refers to a plebiscite and they say that it is on this basis that this programme rests in order that this may be done, and a certain course may be followed. Therefore I refer you to the quotation I have just read out. I do so because I do not want the Security Council to be left in any doubt. We would sooner lose a point than try to

mislead the Council. If our position was the other way, we would not have been in such situation.

Pakistan Concealed Information from the Security Council

With regard to the withholding of information, the Pakistan Government did not convey to the Security Council the information it should have conveyed and the Commission time after time has said that this makes a difference.

Let us take the point that the United States and the United Kingdom are so obsessed about: demilitarisation. I do not use the word “obsessed” except in a very textual sense. Sir Pierson Dixon is a classical scholar and has an accurate mind, and so he would not mind.

It is said that demilitarisation is the crux of the matter. Now I invite you to read statement after statement of the Commission where it said that the whole of this demilitarisation question has been bedevilled by the fact that, after the acceptance of these documents i.e., even after 13 August 1948 and even after 5 January 1949, the Commission came to know about the build-up of the “Azad” forces, about the creation of an army, about the annexation of the territory, about the occupation of the Northern Areas. In fact, Pakistan disregarded all the resolutions from 17 January 1948 onwards. I cannot understand this very un-Anglo-Saxon procedure of taking up a thing at one end and forgetting the whole background of it.

The whole of the demilitarisation procedures have been bedevilled by this, and that has arisen from the fact that the Security Council was not informed. The Security Council was informed, I think, on 15 January 1948 and that the Pakistan Government was not concerned with these marauding raids. It denied our charges. The Pakistanis said they were not there, but soon afterwards the Commission found them there. The information about the “Azad” forces was also not given. What did the Commission say about it? It said, “This constitutes a material change in the situation.” A material change is a change that goes to the root of the matter. When you have a material change, how can you go on playing about with the words that were written down without taking that into account? That is why the further assurances were to come.

I should like, therefore, to request the Council to read the assurances given by Mr Lozano to the Government of India in regard to large-scale disarming and disbandment of “Azad” Kashmir forces and the wording used to the Pakistan Government which unfortunately, if I may say so, for him, the Foreign Minister of Pakistan has quoted. Mr Lozano said, “The disbandment is not contemplated by the resolution.” In other words, what he said was, “when the resolution was written, you did not tell us about this; we did not know; and that is why we had to give the assurances.” This habit the Council has been led into of treating the two sides on the same footing is what has bedevilled the whole situation. What are given to us are assurances. They are protocols to a document. So far as Pakistan is

concerned the position is different. What the Commission told Pakistan was that the resolution did not contemplate the disbandment of the “*Azad*” forces. The resolution could not, because the Commission did not know the forces were there. In other words, he is telling them politely, “If you had told us, it would have been there in the resolution.”

On 19 August 1948, the Foreign Minister of Pakistan in a memorandum attached to a letter of the same date to the Chairman of the Commission, stated:

“While the Security Council was still engaged on the consideration of the Kashmir case, India was steadily building up its armed forces in Jammu and Kashmir. This building-up process did not cease on 21 April 1948, but was continued and intensified. The Indian Army mounted a big offensive in the beginning of April, thereby causing a material change in the situation.” – The Commission has not said this. – “This offensive action has continued since. The publicly declared intention of the Government of India was to secure a military decision in Jammu and Kashmir, thus presenting the United Nations Commission with a *fait accompli*. This situation not only put in jeopardy the entire population of the areas under the *Azad* Kashmir Government, and led to a big influx of refugees into Pakistan, but also constituted a direct threat to Pakistan’s security. It was this which compelled the Government of Pakistan to move their troops into certain defensive position.” (S/1100, annex 26, appendix, para 4)

This is the defence for its invasion and the fact that it was hidden from the Security Council. This is the Foreign Minister’s statement. What is the Commission’s answer? The Commission said, in the letter on 27 August 1948 from the Chairman of the Commission:

“The Security Council resolution of 21 April 1948, which sets forth the terms of reference of the Commission, was adopted with cognisance of the presence of Indian troops in the State of Jammu and Kashmir. The presence of Pakistan troops in Jammu and Kashmir, however, constitutes a material change in the situation inasmuch as the Security Council did not contemplate the presence of such troops in that State, nor was it apprised thereof by the Government of Pakistan. The Commission cannot accept the statement in the memorandum that the Commission’s description in this respect is ‘one-sided and inadequate.’” (Ibid., annex 27, appendix, para 4)

I ask you whether that is not, in polite language, a statement by the Commission, as regards the Security Council’s resolution and the legitimacy of the Indian troops in Kashmir, that the incursion of Pakistan elements was concealed from the Security Council, that this was a misdemeanour, an offence against the Security Council and the Charter and therefore constituted a material change, and that it repudiated the undertaking given to the Council itself. This is part of the

Commission's statement, and I do not see how the Security Council can overlook it.

Military Aid to Pakistan and Economic Aid to India

There are two references to military aid, in one of which our friends of the United Kingdom come in for a reference. There is a reference to the military aid to Pakistan and the economic aid to India (770th meeting, paras 56 ff.). I am very sorry to have to go into this, because the arrangements between the United States and ourselves, and in the same category the arrangements with Pakistan, are bilateral. They are published documents, and I hope the representative of the United States will not mind my saying that the greater part of the development expenditure in India is our own money, raised from the banks and by way of loans and in other ways; but when the generous aid from the United States comes, it is for specified purposes and we cannot divert it. What is more, it is part of the policy of the Government of India, from which it does not deviate, that for every dollar that is given as aid the Government of India contributes many times more. Otherwise it would not go into the project, because India does not want any project to become dependent upon foreign aid. Therefore, it is wrong to suggest that the economic aid that comes from anywhere else, whether we build plants through the Germans or the Russians or the Americans or the British by long-term loans or what not, enables us to divert our resources. With a few exceptions, this economic aid is not in reference to the feeding of our people, but is in reference to future projects. Therefore, it is not as though we take it from a till and gives it somewhere else. I think that this is a gross perversion of the facts and something that my Government cannot let pass unchallenged. I think that it is a slur on the United States Government, which is extremely careful so far as we are concerned as to the way in which the money is spent. We are anxious that it should know exactly where the money goes, because we have no desire to divert any foreign aid, no matter from what country it comes, whether it be under the Colombo Plan or under a United Nations plan, to any other purpose. To make a statement of that kind I think is a very unfriendly act to a neighbour country which is trying its best to live in friendly relations with its neighbour.

Military aid to Pakistan on the other hand, is another matter. There are no published figures on this aid. We have some idea of it, however. No one knows the quantity of this aid, what is more, it is very difficult to calculate the quantity of this aid in dollar terms because a great part of this equipment is material which was left over from the Second World War and which is good enough for use in fighting against us. All we can say is that the quantum of United States aid, as the Prime Minister of India stated several times last week, is very considerable and is so considerable as to challenge our security.

I have stated more than once in the Security Council and I must repeat it now, that we do not question the assurances of the United States Government that this aid is not given for that purpose. But we deny that the United States is capable of

preventing the receiver from using it for whatever purpose it wants. That is our position.

Reference has been made to our purchase of bombers in the United Kingdom (770th meeting, para 57). The purpose of all this is to create an atmosphere to show that we are embarking upon a large-scale invasion. I am very sorry that this reference has been made, because these Canberra bombers from the United Kingdom have been the subjects of negotiation for two or two and one half years. In fact, I believe that I started the negotiation myself. The negotiations have been going on for a very long time. The British are very slow in deliveries because of their own commitments and everything else, and we are very particular about getting them on terms that are suitable to us. The bargaining goes on and the arrangements go on, and all this was finalised the other day. The Government of India deeply regrets that from some source in the United Kingdom not connected with the Government, the information leaked out into the press at the time when this discussion was taking place. It has been synchronised purely from a propaganda point of view. This transaction constitutes a normal replacement. When the British left, there were other bombers which belonged to the period of ten to fifteen years ago. If one has an air force one might as well have it equipped with modern aircraft. That is all there is to it. It constitutes an ordinary replacement for the bomber force of the Indian Air Command.

Reference was also made to India's retention of large quantities of military material that were left in India by the British (770th meeting, para 59). I am asked to make an emphatic repudiation of this statement and to express our surprise that the Foreign Minister of Pakistan, even though his relations with his Government in an official capacity are recent, should have been guilty of this statement. The moment that partition was decided upon, we set up a Partition Council in which our two sides were represented, and arrangements were made. What was due to Pakistan, we have given to Pakistan. What could not be given, we have paid for. I think, if anything, the balance was the other way round. Therefore, there is no truth whatsoever in that statement, and, I am sure that if there was any truth in it, that would have motivated the British to do something about it.

No Troop Concentrations by India

Repeated references were made about Indian troop movements. The purpose of all this was to convey the impression – not so much to the Security Council but to the world – that India was preparing for aggressive action. It is not a secret that India has an army, and we hope it is a good army if the time should come to test its strength. There is nothing very secret about these troop movements apart from the normal secrecy which the military maintains. It is not usual to refer to troop movements in public debate of this character, and, quite frankly, I do not know how much of this is what the United States would call classified information. However, since we have been challenged on this, we might as well speak of it.

I am authorised by the Prime Minister of India to state that the whole orientation of this in the sense of troop concentrations anywhere is entirely false. I have stated this once before.

Reference was made (770th meeting, paras 66 and 67) to the movement of the 166th Brigade (5th Division) from Dalhousie (Punjab, India) to Pathankot on the Indo-Pakistan border. This is a normal process which has taken place from British times – it has certainly taken place from independence times. That movement had nothing to do with this particular year. It is something which takes place at this season. It is the normal process of moving the troops in this season of the year. We could not keep them at Dalhousie at this time. It is quite a normal practice for a brigade, upon completion of its training, to return to its permanent location.

Reference has been made to the 123rd Brigade. All I can say is this: there has been no addition whatsoever to the strength on the East Punjab and West Pakistan border. I submit this is a solemn statement on behalf of the Government of India – we have not indulged in any troop concentrations; in fact, our normal defence against Pakistan, if there should be any trouble, would be by our armed police. It has not always been satisfactory, but it is far better to take the risk of being hit once or twice rather than to take the risks of a general scuffle.

Reference was made to the 27th Division. Here again there has been no change whatsoever – no change in the formation, no change in the units, no change in the strength.

Reference has been made to the 2nd Armoured Brigade. My colleague, the Maharaja of Patiala, who sits behind me, knows that this armoured brigade has been in Patiala for the last six years.

The Security Council was informed that the First Armoured Division is now in Jhansi, presumably banking on the fact that the Security Council would not be familiar with the map of India without looking at it, for Jhansi is very far from the Pakistan border. In fact, this regiment had been at Jullundar before it was moved farther away to Jhansi.

I note a mark of impatience on the faces of some members, which I can quite well understand. I did not want all these details to be given, but when a Government is charged with the concentration of troops and preparing for war, it is necessary to clarify the position. We have done nothing in that direction, even though we have knowledge through our intelligence service of the preparations on the other side and the danger which we are facing. We do not want to be put in the position before the world that we have gone into mobilisation and we do not want our people – and this is our greater concern – to get into a war fever. For those reasons there have been no changes whatsoever and I repudiate every one of the insinuations contained in those statements.

Alleged Censorship of the Press

I come now to the question of censorship of the Press mentioned by the representative of Pakistan (770th meeting, paras 80 ff.). I hope that the United Kingdom representative will have something to say on this score. I should like to ask him, through the President, the following question: if a United Kingdom national had been manhandled, would not the United Kingdom Government have taken some action in the matter – privately, publicly or otherwise? Perhaps the representative of the United Kingdom would tell us some time whether his government has any reason to protest.

It is significant that the United Kingdom newspapers which have been quoted by the Foreign Minister of Pakistan are of a particular character – and it is not my intention here to use invectives, because I am polite. The *Daily Mail* and the *Daily Express* have been quoted by the Foreign Minister of Pakistan: the Kashmir Government has looked into this matter. It has denied a report broadcast by the BBC and the Pakistan Radio (there is a relationship between the BBC and the Indian Radio and the Pakistan Radio; and, therefore, when the Pakistan Radio broadcasts something, the BBC picks it up as normal news) to the effect that two British correspondents who visited Kashmir were attacked by hostile crowds and were unable to leave their hotel.

The Press note issued by the Kashmir Government reads as follows:

“There is no truth in the broadcast by BBC and Pakistan Radio that two British correspondents visiting Kashmir had been attacked by hostile crowds and were now unable to leave their hotel.

“The two correspondents who arrived in Srinagar last week have been afforded all facilities and treated with the utmost courtesy by all concerned. They have been moving freely interviewing people. The allegation that the two correspondents were attacked by hostile crowds is presumably based on a minor incident which took place a few days back when there was a demonstration in Srinagar in connection with the Security Council’s latest resolution on Kashmir” – and I suggest that demonstrations take place in this country, too, when there are draft resolutions before the United Nations. Our people are allowed to demonstrate. No one was manhandled. The two correspondents, accompanied by a State Government information officer, were going in a jeep when they were caught up in the midst of a group of demonstrators. It is true that the demonstrators were excited, but at no stage were the correspondents attacked or hurt in any way. All the same they were afforded adequate protection by the police. The allegation made in the BBC report that “they were kicked and punched and red-hot charcoal poured from braziers” is absolutely baseless.

“The two newsmen continue to enjoy the various facilities extended to them and have been visiting places. On Sunday” – that is, two days afterwards – “they went to Moghul Gardens and today they have gone out duck-shooting.” – I submit that the correspondents could not have been very badly burned if they were able to go out duck shooting. I continue to quote:

“The Jammu and Kashmir Government wishes to make it clear that foreign visitors to Kashmir can, as in the past, look forward to all facilities and courtesy due to them as tourists.”

In fact, the Kashmir Government has a vested interest in this matter. A considerable part of its revenue comes from the tourist trade, and it therefore does not want to make any difficulty for anyone wishing to come to Kashmir.

I shall not repudiate everything else that has been said by the Foreign Minister of Pakistan in this respect. I would only say that all the United Kingdom newspapers which have been quoted by him are newspapers which, for more than a generation, have attacked Indian independence. These newspapers have been against the national movement in India. This does not, of course, mean that the United Kingdom Government or British people are against that movement. In every country there must be different organs of opinion. But the fact remains that the newspapers quoted by the Foreign Minister of Pakistan have been against Indian independence and have been particularly bad in reporting the news so far as we are concerned. I have no doubt that some of these reporters wrote one story for the newspaper and told a different story to other people. These are the facts.

At this stage, I should like to read out to the Council extracts from a syndicated column by Mr Elmore Philpott, a Canadian Member of Parliament, which appeared in the Canadian Press a few days ago. We have ascertained that Mr Philpott is a gentleman of high repute, whose opinions are respected. In his weekly column, Mr Philpott accused the Western Press as a whole of being unfair to Prime Minister Nehru so far as his stand on Kashmir is concerned. Mr Philpott said:

“It never was true that the Indian Army ‘seized’ Kashmir, as many American newspapers are now stating with complete disregard for actual facts.”

Recounting the sequence of events in which “Kashmir was actually invaded by wild mountaineer tribesmen on 22 October 1947, the orgy of violence and destruction” that went on the signing of the instruments of accession by the Ruler of Kashmir, Mr Philpott said:

“While it is true that the Ruler of Kashmir was Hindu, it is equally true that the victims of the invasion of Kashmir were mostly Muslims” – I

would remind members of the Council that I have already informed them of this fact – “and the whole Muslim population of the valley of Kashmir was frantically appealing for protection from wild invaders . . . The Indian Army at that time was still under the command of the British officers.” - The Commander-in-Chief was General Lockhart. – “A combat team of 335 men was flown in one of the most timely and clever airborne operations of our times. A small force arrived literally in the nick of time to save Kashmir, not so much for India as from violence of the mountaineer invaders. It was considerably later when the Kashmir trouble degenerated into actual war between India and Pakistan. For weeks or even months after the original outbreak, the Pakistan Government tried to convince the world that it had no direct part in the events in Kashmir. Time after time the United Nations arbitrators have found that Pakistan has no *locus standi* in Kashmir on any basis of legality. . .

“Nehru told me in 1951 that he was completely in earnest about permitting a free vote in Kashmir. But he insisted that Pakistan must meet certain prior conditions including complete withdrawal of her armed forces from all disputed territory before the vote.”

I have already stated our position with regard to the use of a United Nations force. I shall refer to this question again when we reach the stage of discussing the draft resolution

I have no desire to go into the anecdotes and fables mentioned by the Foreign Minister of Pakistan. I would only say that I deeply regret the way he has chosen to treat this subject, so far as we are concerned. The Security Council must be the judge as to the manner in which we have presented the facts, as we see them, and have sought to rely on the available documents.

Violations of Cease-fire Agreement by Pakistan

At this stage, I should like to make the position of the Government of India clear beyond any possible doubt. Whatever I say in this connection must be viewed in the background of history – which has been submitted to the Council on many, many occasions – and in the light of all the points that have been outlined to the Council with respect to the position of Kashmir, which is not a no-man’s-land.

When, on 1 January 1948, we submitted a formal complaint to the Security Council under Chapter VI of the Charter, we were not asking the Council to settle a territorial dispute. I would ask members of the Security Council whether they can show me any evidence anywhere to prove that a suggestion of this kind was made. We came to the Security Council to ask its assistance in obtaining under Chapter VI of the Charter, the end of an aggression. We informed the Council that, if that were not done, other consequences would follow. Without withdrawing that position, I would say this: at the request of the Security Council

and of some of Mr Jarring's predecessors as Presidents of the Council, we expressed our willingness to consider various methods for a pacific settlement. And I would emphasise that we brought this matter to the Council under Chapter VI of the Charter – a fact which seems to have been forgotten. We could have invoked Chapter VII, but we preferred to invoke Chapter VI. Under the specific methods for a pacific settlement, various plans have been suggested. I would submit to the Council that the essence and basis of all these procedures – whether resolutions of the Security Council, requests we have made, or *caveats* we have entered and accepted – is that, whatever may happen in the future, the territory of Kashmir is an integral part of the Union of India, that an aggression has taken place, that the Jammu and Kashmir Government is a sovereign Government, that India is responsible for the security and internal order of Kashmir, that peaceful conditions must be restored before anything else can be done, and that the accession is a continuing accession, capable of termination by the Government of India. Furthermore, we have obtained assurances, which are incorporated in a resolution passed by the Security Council itself, that the only legal authority that can do anything in the State of Jammu and Kashmir is the sovereign authority; this has been emphasised time and time again. Thus, all of the procedures which have been before us have been pacific procedures. In the pursuit of the carrying out of these pacific procedures, two resolutions have been adopted.

The Government of India therefore requests the Security Council to consider, after nine years, whether these pacific procedures have been followed or if they have been violated. Of course, there are minor violations in all procedures; there are minor violations by either side. But are they violations that go to the root of them? That is the first point. The second is whether these procedures are vitiated by the concealment of facts and therefore the whole basis of the approach disappears. Therefore, the Government of India asks compliance with part I, paragraph B of the 13 August 1948 resolution, which is not observed by the Pakistan Government, and is therefore a violation of the cease-fire order.

The Foreign Minister of Pakistan said that if there were violations of the cease-fire order, the observers would report the violations (770th meeting, para 73). In fact, they do; there are violations; sometimes there are violations from our side – somebody goes this way or that way; sometimes they come in. They are reported and the matter is settled. But it is definitely laid down in the cease-fire agreement which concerns the observers that they have nothing to do with political questions. This is a political question. And this is what it says. Part I, paragraph B, reads as follows:

“The High Commands for the Indian and Pakistan forces agree to refrain from taking any measure that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.” (S/1100, para 75)

The Government of India categorically states that since the adoption of the 5 January 1949 resolution, Pakistan has introduced into the territory of Kashmir occupied by it very large quantities of military equipment; it has trained a considerable army, it has created airfields and has made it a base of attack against us, endangering our security. Therefore, before we proceed any further, before we even talk about part II, the Security Council, I submit, has a duty in regard to this resolution. There has been a tendency to talk about this as though this is what we undertook with Pakistan, and Pakistan undertook it with us. The Security Council told us, "You people settle this on this plan." Therefore, the Security Council took over. Therefore, their moral responsibility is certain and whatever legal responsibilities can be brought to its door under the Charter - it must see that this is carried out. The Government of India is entitled to ask today, after nine years, why the *materiel* brought in after the cease-fire order, apart from all questions of demilitarisation, is not removed.

Secondly, Part B does not require any action. In fact, it does not call for any action from India at all. It is an action the Pakistan Government has to take not only in pursuance of this resolution, but also in pursuance of the resolution of 17 January 1948 which they not only violated but acted in such a way as to conceal the facts from the Security Council. Any Government that is guilty of concealing material facts is out of court before the Security Council. Therefore, the Government of India requests the Security Council to interest itself in its responsibility as one of the parties to this matter and to point out that paragraph B of part I of the 13 August 1948 resolution is being violated.

Paragraph E of the agreement states:

"The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations." (Ibid.)

I have made statements and produced evidence before the Council many times. I did not have too much difficulty because the Foreign Minister of Pakistan himself produced evidence by his statement. His first speech was an ultimatum to the Government of India. Here are reports from the press in Pakistan which refer to the preparation of tribesmen for the invasion of Kashmir, and these were not non-Pakistanis. Baluchistan is part of Pakistan. These are persons who are in an official position in relation to all of this.

I quote from *Dawn* of 7 February 1957. The *Dawn* correspondent at Quetta wrote as follows under a Quetta dateline of 6 February:

"A deputation of Afghan Pawindas of the Tarak tribe today waited upon the Political Agent of the Quetta-Pishin area and offered their services for the liberation of their Kashmiri brethren.

“They said that the Tarak tribesmen were ready to sacrifice their all to liberate their Kashmiri brethren from the Bharati” – that is us – “tyranny.”

“The deputation consisted of Malik Khurram Khan Taraki, Malik Akko Khan and Malik Abdullah Khan Hotak.”

Here is another article from *Dawn* with a Rawalpindi dateline of 6 February 1957. Rawalpindi is in the Punjab. The article states:

“In the event of the Security Council’s failure to bring Bharat” – that is India – “to reason, we shall not hesitate to revive the liberation war to free our enslaved brethren on the other side of the cease-fire line”, says a resolution passed recently at a representative gathering in Skardu. . .

“We are much perturbed at seeing our brethren in occupied Kashmir marooned into an unconstitutional accession...”

Here is another article from *Dawn* with a Quetta dateline of 9 February 1957:

“Mir Habibullah Khan Nausherwani” – I suppose he is the head of the place, the former ruler of the Kharan State – “today said that he, along with his tribesmen, was ready to sacrifice their all for liberation of Kashmir. He has requested the Additional Commissioner, Kalat Division, to convey his offer to the Pakistan Government.”

The duty of any civilised Government today, when a citizen of that kind offers to attack a neighbouring country, is to have him taken under its law. Pakistan owes an obligation to the international community, when any citizen of theirs makes statements of this kind, to take action against him. But instead of that, our information is that very considerable concentrations are taking place and, as I have stated before in the Security Council, the pattern is exactly the same as it was in 1947.

It is our duty under the Charter – and I say this with all the feeling I personally have and that my Government has about war – if our territory is invaded to resist that invasion. And I am directed by the Government of India to repeat what it has said before: that any invasion of any part of India is the invasion of the whole of India. The Government of India would regard an attack on Kashmir as an attack on India and would take action accordingly. That was its position from the very beginning because Kashmir is part of India. Therefore, any attack on Kashmir is an attack on the whole of India. We came here on the last occasion to save ourselves from this position. We said to the Security Council: “This attack means we have to invade Pakistan. We do not want to do that. Please ask them to go away.” And this is the result.

Therefore, in the first instance, the Government of India seeks from the Security Council some consideration. Instead of concentrating all its attention on matters which are incidental to so many things happening beforehand, and which are not integral to the settlement, it should obtain the observance of these conditions or declare them aggressors. Pakistan has to withdraw and it does not require any action from anyone else. I read out to you the Commission's report that it knew that the Indian forces were there and the responsibility they have for the defence of India. Therefore, with regard to part I, paragraph B and E of the resolution of 13 August 1948, the Government of India requests that this action be taken. The Government of India requests that note is taken of the fact that, according to its Constitutional procedures, according to its public opinion and according to Constitutional and international law, the attack on any part of a country is an attack on the whole.

With regard to the remainder, I have gone into details very many times about the withdrawal of Pakistan troops. Part II, section A, paragraph 1 of the 13 August 1948 resolution states:

“As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.” (S/1100, para 75)

I submit that that is not a conditional offer. It is an offer *per se* because it is more or less a penance for concealing facts from the Security Council. The Pakistanis have come here and said: “We are not invading; our troops are not there.” When they were found out, the Commission dealt with them politely and merely said that it was a material change.

The Foreign Minister of Pakistan has quoted Sir Owen Dixon (770th meeting, paras 48 and 52), whose opinions have not been favourable to us, but he is a high judicial luminary, and to suggest that he made an observation in order to get India's agreement – that is the phrase that was used – is, I say, a very serious statement to make about the Chief Justice of Australia. But I have quoted the whole of the paragraph – so has the representative of Pakistan. What does it say? In effect it says the following: “I cannot go into this question of aggression. I am not going into it, but, irrespective of that, I say there has been violation of international law when they crossed this territory.”

That is not to say that this is conditional upon something else. What he was saying was this: whether there were previous factors, as Sir Muhammad Zafrulla Khan urged in the Council, or whether there were other matters to be considered; first of all, he was not entitled to go into them but, without all that, he would say: “there has been violation of territory”; there was a breach of international law, which is aggression. And I submit that to suggest that Sir Owen Dixon said this only in

order to persuade my Prime Minister to agree to something is, in my view, a reflection on character which, we regret, has been made about the Chief Justice of Australia.

Therefore, part II, section A, paragraph 1 has to be observed, and that observance, I submit to the Security Council, does not require any action from anybody else; and what is more, it is an action that is called for precedent to anything. Therefore, paragraph B and E of part I and section A of part II are conditions, are actions that have to be taken by the Government of Pakistan out of consideration for the agreements which it has entered into; furthermore, and above all, in pursuance of the resolution of 17 January 1948 and even, further, in pursuance of respect for international law and behaviour, because, assuming for argument's sake that there are flaws in our title, how did Pakistan come into Kashmir? It came in only by invasion.

What has the Security Council done about asking Pakistan how it incorporated territory? What has the Security Council done about asking these people whether the population in Gilgit or in the western areas, in so-called "*Azad*" Kashmir, or in Baltistan, have a vote? Can they express themselves? Why do they not have these things? Is there any economic development? No, they have been prevented by occupation; and the efforts of the Kashmir Government and our Government have been to try to bring political liberty and economic emancipation to the area.

So the next point which I wish to make is that part II, section A, paragraph 1 of the resolution has to be carried out. The same applies to paragraph 2 as well. Then comes paragraph 3, on which the Foreign Minister of Pakistan entered a *caveat* when he spoke last and which I have explained today. There is no doubt whatever from the wording of this paragraph and the supporting documents in this matter that the administration of this area must be by local authorities; that is to say, there should be no Pakistan interference. It is not Pakistan's sovereign territory, and it is the duty of the Government of India, under subsequent paragraphs, to go to the assistance of the people there if there should be danger of invasion.

I make a further request to the Security Council. Faced as we are with this present situation, in which there is a campaign of hatred, the Government of India believes – and I hope that the Security Council believes – that apart from all agreements, it is a basic condition that no pacific procedures are possible except in a pacific atmosphere, and, therefore, observance of part I, paragraph E becomes fundamental to any procedure. How can there be a plebiscite or anything else without pacific procedures? How can there be pacific procedures under threat of war and of *Jehad* (holy war), and the invasion of our country, and name-calling all the time? Unless there is an alteration in the situation, it is quite impossible to achieve any settlement or any approach towards a pacific settlement. In any dispute that is important, and therefore, it is more important with us.

We are quite prepared at all times to seek methods of conciliation. The Government of India, therefore, desires me to state that, having regard to the security of India, its northwest borders today are threatened by an army which is out of proportion to what it was before – and I repudiate the assertion by the Foreign Minister of Pakistan that his country's army is one-third the size of India's army, and I am prepared to substantiate it in any place. I repudiate the suggestion that its equipment is anything like that and, what is more, we desire to point out that the imbalance that has been created has resulted in insecurity for us and therefore, the Security Council has the responsibility for implementing the basis on which all these considerations have taken place. The Government of India alone is responsible for the security of this territory. Therefore, when the time comes – if it should ever come – we should be free to protect our frontier. That would not be aggression. But, at the same time, I repeat the solemn undertaking that I gave in the Security Council: the Government of India will not move one soldier nor fire a bullet across the cease-fire line in order to assert its legal, constitutional, moral and political rights. It is still prepared to pursue the path of conciliation, the path of negotiation, the efforts of the Security Council or the influence of time; but that does not mean that we shall surrender any of our rights, because if this happened to us, our country would be Balkanised and, strange as it may seem, we have a patriotic fervour about its unity.

Therefore, I request that the Security Council would not think that we have not made any specific request in this matter. We believe that the pacific settlement of this difficulty, the resolving of this problem –as it was rightly called by the representative of Colombia in his amendment (S/3791/Rev.1) – is possible in terms of a different outlook. That outlook cannot be one where the aggressor and the aggrieved are treated on equal terms. It is, in our submission, an error to take the view, whoever takes it, that the aggression question has been disposed of. That would be a very dangerous precedent for the Security Council to establish, that, because of the passage of time, somebody can reap the fruits of invasion. The position of my Government – whether it be here, or in the Middle East, or in Central Europe, or anywhere else – is that no invading power, no invasion, can be permitted to reap rewards for invasion. That is our position in regard to Kashmir.

A great deal has been said about the moral position involved in this, and I submit – and I want to submit this with no reservations whatsoever – that the position which we have taken in regard to Kashmir will stand any test of morality. I would like to look at any Government and ask whether, at a time when its army was marching victoriously, it would stop it in order to avoid further bloodshed. I do not say that no other Government would have done so; all I am saying is that our Government has done as well as any other.

In regard to Kashmir, we have come here to pursue pacific methods, we are now pledging ourselves not to use force in order to assert our political, constitutional and moral rights, and we point out that within the territory which we are now administering, we have brought the benefits of human rights and civilised

existence and, in spite of the fact that Pakistan has the territory, we have taken half a million people who have fled from “Azad” Kashmir – Muslims – since Pakistan occupied it, because of a reign of terror there. I use these words because they have been used against us. And I ask, do you think that it is possible to have an Iron Curtain in a country where in the holiday season 60,000 visitors, including 5,000 Americans, come in? Can you keep any place private where American visitors go in? Therefore, I submit that we have listened to all this patiently. I submit that it is very wrong – and I particularly look to my friend who is smiling at me – to make use of this forum as a forum for maligning a Government which is trying to follow civilised standards. Our people have the right to vote, to express themselves. That cannot be said of the other side.

Therefore, these are the requests that we make to the Security Council. It cannot be said that the position taken by India was one where it was evading its commitments. In order that there may be no doubt about it, may I say that the Government of India will at no time resile from any international engagement into which it has entered. But it is not sufficient for the daily Press to say what that international engagement is – it is not sufficient even for member Governments – without getting all the facts of the question. There appears to be a difference of opinion on this. Fortunately for us a Colombian was Chairman of the Commission. So the representative of Colombia has taken some interest in the matter. I ask the members of the Council to read these documents. Let the Security Council say that the assurances that have been given after very grave discussion with the Prime Minister by the Chairman of the Commission, on behalf of the United Nations, have no value. If pacts are not to be observed, why should one pact alone be observed?

There is one further point I desire to make, and since there is some possibility, Mr President, of your going out to what is unfortunately called the sub-continent, I would like to state the following: what is the present position? The present position is that two or three clauses of the cease-fire agreement are observed. That is to say, not desiring to try conclusions or to assert our rights by force, and Pakistan also being apparently satisfied with the territory that it has illegally absorbed, for the time being, there is no fighting at the present time. But what is the exact position? I would like the representative of the Philippines to think about this because there are some doubts about it. What the Security Council is doing by the draft resolution (S/3787) is trying to hold the ring for aggression; that is to say, it is because of the security that is provided by the cease-fire line that all this has taken place on the other side. The Security Council’s resolution, our respect for the Observer Group, and our desire not to use force in order to assert our rights, are being used as holding the ring for the invader. It is behind this wall, it is behind this cease-fire line that the annexation has taken place. How do I explain to my people why the members of the Security Council, sitting around this table, had not a word to say about the illegal annexation of some 42,200 square miles of our territory?

As I said before, whatever may be the defects in our title, how do these people come in? They have no right to be there at all. And the Commission said so a hundred times over. The Foreign Minister of Pakistan says that the Plebiscite Administrator was not at the beck and call of the Jammu and Kashmir Government; he was not to take orders. But may I say something in this connection as a parallel. We have an Election Commissioner in India. He is paid out of the Indian revenues, but he does not take orders from the Indian Government. We have High Court Judges in India who are appointed by the President. They are paid out of Indian revenues, but they do not take orders from the Government of India. But the reason why it has been put down that the only constitutional authority that could appoint the Plebiscite Administrator is the Jammu and Kashmir Government, is the assertion by the Security Council, things being as they are, of the sovereignty of the Jammu and Kashmir Government in this matter.

That takes us to the draft resolution. There has been a great deal of criticism of our attitude, fortunately not in our area. Here I wish to take the opportunity of expressing our appreciation to the Press in Burma, Ceylon and Indonesia – I have not had the opportunity to read the Manila Press – and increasingly, if I may say so, in Australia. It takes a long time – there is a lot of water between us – for the appreciation of the position we have taken. We believe today, in spite of any attitudes that may be taken for the time being, that we are subscribing fully to the principles of the United Nations Charter. We are resisting the attempt to capitalise from an invasion. We are begging of the Council not to allow the police force which it has put in there – which is what the Observer Group is; it does not matter what its size is, it is respected – to be there as the ring for aggression, behind which there can be a build-up from the ill-gotten gains of a country that has violated international law, that has concealed facts from the Security Council, that has thrown to the winds all canons of decent behaviour.

Comment on Statement by Iraq

There is one small matter to which I desire to refer before concluding. There has been an attempt in this unfortunate statement, this very ill-conceived statement, contained in the verbatim record of the 770th meeting, to put every delegation around this table at loggerheads with us. In this connection, reference has been made to some discourteous observation that I made in connection with the representative of Iraq (770th meeting, paras 99 and 100). Of course, certain newspapers in some countries will naturally be only glad to say so. But I must say, in defence of my colleague, that he did keep on saying that he did not understand the language which he was using very well. I do not believe that myself. I did not say that; he said that. Incidentally, may I say that I have spoken to the representative of Iraq and it is up to him to say what he thinks. But so far as I can understand, he does not take the same view, and I have no desire to enter into controversy about it. But since it is written down in the document and will be broadcast in the Arab Press, I want to make this position perfectly clear. What did

I say? I will read the whole paragraph, because it refers to Sweden also. I said the following:

“Now we come to the draft resolution before the Council. There were two suggestions made by the President in his capacity as representative of Sweden. I have not referred to the observations made by the representative of Iraq except to say” – and these are the important words - “that the presentation he has made does not represent the facts of the situation.” (769th meeting, para 119)

So far as I know, there is nothing unparliamentary in it. It simply says that I do not agree with him. They are not the facts and they do not tally with the facts. But that is not the sentence that the representative of Pakistan quarrels with. The sentence reads:

“It ignores the circumstances but, at the same time, I pay tribute and express my appreciation of his desire to be kindly on the side on which he is not neutral and that is all I can say.” (Ibid.)

I am the side on which he is not neutral, so far as I am concerned. I am entitled to say that. I am entitled to say what is the orientation of his view. He does not quarrel with that. I pay my tribute and express my appreciation of his courtesy, and then I went on to say:

“One must stick to the truth even one wants to be polite.” (Ibid.)

That “one” refers to me, to Krishna Menon, and not to him. I have to be truthful even if I want to be polite. I am polite in saying that I pay tribute and express appreciation, but at the same time I must say that this does not represent the facts. Now this is plain ordinary English as I was taught, and I propose to go to the representative of the United Kingdom afterwards and find out if I am wrong about this.

If I may say so, if there was any trouble in this matter, this is really a matter between the delegation of Iraq and ourselves, and it is not part of the atmosphere of the Charter to try and make trouble between various members especially in the present conditions in the Middle East and in regard to political alignments in which Iraq is involved and with which we are in disagreement. I have spoken to the representative of Iraq and I would like his countrymen to know that it is far from my mind to be discourteous, and I would be severely reprimanded by my Government if ever I was discourteous to him. Not that that would happen. There was no such thing intended; no such meaning is conveyed by these words, and I am prepared to think that the Foreign Minister of Pakistan may have, in his general disposition to find fault with what I have said, been led into error. I do not want to attribute motives to him.

Therefore, in so far as the matter has been stated, I would, through you, Mr President, ask the representative of Iraq to accept this explanation - not the explanation saying that it was erroneously meant in the beginning, but the explanation of the facts so that his people may know about them.

India's Position on the Draft Resolution

That brings me to the end of my observations in this regard. With respect to the draft resolution itself, I have spoken at length. Our position remains unchanged. The Government of India cannot be a party to the introduction of foreign troops on the sovereign territory of India and the whole of our case rests, has rested and will rest upon the view that Kashmir is a Constituent State of the Indian Union. Any soldier who sets foot on Kashmir soil, whether it be in the illegal occupation by Pakistan or under the administration of the Jammu and Kashmir Government as part of the Union, will in our view be violating the sovereignty of the territory unless it is with the permission of the Government of the Union of India, because defence and foreign affairs are the concern of the Government of India.

Secondly, I should like the Security Council, apart from these considerations, to take very seriously into account what it is really proposing. Here is a territory where, until now – although there are a lot of people who do not like us – there have been no communal disturbances. There are perhaps individuals making trouble, but apart from that there have never been any Hindu-Muslim difficulties in Kashmir. Progress is taking place but very large sections of people are against any unsettlement of affairs or interference with them, and it is necessary in the present conditions for the Government to put an enormous amount of efforts into reconstruction. Does anyone believe that if the forces of Kashmir police and militia, and the supporting forces of the Indian Army – who did not go to Kashmir against the Kashmir people, but went there against the invaders who committed plunder and rapine mostly against the Muslims and the Christians but on others, too, of course – does any one believe that when these forces are withdrawn it will be possible for such a modicum of troops as may be produced by the Secretary-General to maintain order in the territory? Would they ever be able to have anything other than the character of an army of occupation? Would not this mean that those troops would take over the Government of the country under a military administration? What would happen in the Pakistan areas of Kashmir? I am stating my position, which the Pakistan Government denies. We see that the Pakistan side of Kashmir is seething with discontent. The effects of oppression are coming out and the territory is split from top to bottom on this issue. There is a considerable demand for union with the rest of India, because on the other side can be seen, if nothing else, prosperity, opportunity and, what is more, the right to elect one's own rulers.

It is not a small thing that in a feudal State of that type in five years time they have not only displaced the old Maharaja and done away with the dynasty but have elected the other man who has to seek suffrage every five years. Therefore,

any conception that the authors of the resolution may have in their minds that they are undertaking some simple operations, something which is practicable, is mistaken and it is my duty as the representative of a member State of the United Nations to remind them that their conception is one which is totally impracticable and is calculated to create trouble in the country, to throw it into civil strife and bring back the memories of foreign occupation.

To take foreign troops into any country that has formerly been colonial is to rub wounds, which are only just beginning to heal, and there can be no question at any time that this can happen. The Government of India cannot depart from any of the basic positions that I have stated. Equally, it will not depart from its determination to follow the paths of conciliation and that is why we have said that if our distinguished President, under the authority of the Security Council or in his private capacity, were to come to India, our hospitality would be open to him. That hospitality, however, does not extend to the terms you are seeking to impose upon us. They are two different things.

Therefore, with certain alterations – if the Security Council found itself a way to follow the line taken by the representative of Colombia, it might be that some other way would be opened. If the Council is still relying on the resolutions of 13 August 1948 and 5 January 1949, making the reservation that we have no intention of violating the cease-fire line, if it is still relying on those, then start with part I. Let Sir Pierson Dixon address his mind to part I on the subject of demilitarisation. We have no objection to the word demilitarisation if it means that to start with. The other day I read out to you a passage from Oppenheim which pointed out that any treaty which a country might enter into was bound by considerations of security, and it is our duty in the present condition not to refrain from informing the Security Council of the threats, of the ultimatums, of the mobilisation of troops, of this propaganda of hatred and of the enormous quantity of military material which is being flown into the area.

The Proposal for Arbitration

I wish to make one final point before I conclude, and this largely relates to the moral position which people have spoken about. We do not seek to take up a moral position in the world, but newspapers speak about it. We are only one country among eighty; we have no special position of any kind and we must ourselves be able to judge the situation. Reference has been made to arbitration – such reference has been made several times, not only by the representative of Pakistan, but also by others and it has been stated, with some degree of distress of mind, that at one time we refused to go to arbitration. Again, arbitration is a word, like plebiscite, which can be bandied about. I have never heard of a plebiscite being taken in one of the constituent units of a union. I should like to draw your attention to the fact, which I have set out before, that the arbitration tribunal in this particular case was asked to set down the questions that it was going to arbitrate upon – and that is unusual procedure. But over and above that, certain other things

happened. First of all, in making these proposals for arbitration, the Commission was acting *ultra vires*. It had no authority to do that; its business was conciliation and there was violent disagreement in the Commission itself on the suggestion, which was only adopted by a small majority.

There is another matter to which I have not drawn attention largely out of courtesy to the United States and to the United Kingdom, but if you will push us, then we have to speak. This arbitration was a secret offer of the Commission, but before it was presented to the Government of India and the Government of Pakistan it was placed at the disposal of the United States and the United Kingdom, and President Truman and Prime Minister Attlee, in a synchronised action, publicly intervened. I know both those gentlemen personally, and have had many dealings with Prime Minister Attlee, but the intervention made by the United Kingdom and the United States was of such a character that no self-respecting government could have accepted it. However, be that as it may, here was a secret offer made by the Commission, which was not under the order of the United States, the United Kingdom or any other member of the Security Council, but was independent; why were its terms given to these two Governments and why were they asked to put pressure upon us and why was that pressure put in the terms in which it was put? What is more, the verbatim text of the secret arbitration memorandum came into the hands of the British High Commissioners in New Delhi and Karachi at the same time as, or even sooner than, it was officially presented to the Government of India. How do we sell this to our people, even if we wanted to?

We have ceased to be a British Dominion – to the advantage of both of us. This arbitration offer was published and was known to the High Commissioners, in Karachi and New Delhi, even before we knew anything about it. And though much pressure was put on the Chairmen at the time to make an investigation into the integrity of these proceedings, nothing was done. That is the position about arbitration.

Now I say that because our main position with regard to arbitration is normally as provided for under the Charter, if we should avail ourselves of it the procedure must conform to international practice. It is not international practice for the arbitrator to decide what are the terms on which he is going to arbitrate. The parties must decide between themselves, or there must be some terms of reference; otherwise, the whole basis of judicial proceedings disappears. Now this is elementary law, it is ordinary international practice. These papers were before me when I addressed myself to this matter. I thought it would pass over. Indeed, if only the distinguished representative from Pakistan had not referred to it again I would not have brought it back. After all it is his business to do everything he can to present his case. But there were doubts in the minds of other members of the Security Council.

Here is India which is pleading for conciliation and in many cases in these buildings has used its efforts in a moderate way in that direction, when it comes to itself refused to accept arbitration. Putting it in that way, and that is how it appears elsewhere, it looks very bad. Therefore, we had to review the facts. First, it was not arbitration as usually understood. Secondly, there were pressures of this kind. The action was *ultra vires*. What is more it was done in a way which no Government could sit back and say: "We are not going to accept orders from anybody else." We regarded the intervention made at that time as improper, and we said so. We had no quarrel with it because it was done in the best of motives. Both these gentlemen concerned are very good friends of India. And there the matter rested. Why it should be resuscitated at this stage, I do not know.

Obligations of the Security Council

I apologise to the distinguished representatives of the United States and the United Kingdom for referring to this matter, but they will appreciate that it cannot be one way; even the worm turns sometimes. I say once again that I have spoken on behalf of the Government of India not in defence, but as plaintiff in this action. We are plaintiff in this action, we invoke the provisions of the Charter. We asked the Pakistanis to come here with us for a joint settlement. They refused; Prime Minister Liaquat Ali Khan refused. On 22 December 1947 we terminated all that. We came here to take advantage of the provisions of the Charter. We asked this Council to ask Pakistan to withdraw from this aggression and to do what was necessary. It is quite true we did not ask you to brand Pakistan as aggressor. But is that a fault on our side? If it is a fault then we plead guilty to it. It is a fault which we would not be ashamed of being guilty again. But we came here to ask you to prevent the development of events which would lead to war between our two countries – for they had been fighting for several months – soldiers who had belonged to the same divisions, the same companies, were on either side killing each other.

So far we were concerned, that was why we agreed to the 13 August 1948 resolution without any trouble. Pakistan dragged on for five months so it could get military advantage. I want to remind you again that we withdrew from those advanced positions. Does anybody around this table believe that in 1947, soon after the British left India, the Indian Army was not in a position to establish a military decision right up to the frontiers of Kashmir? I do not think anybody believes that.

Therefore, we came here under Chapter VI for conciliation. I think it is a poor service to the Charter, it is a poor service to the confidence that the vast majority of the peoples of our country share, and I make bold to believe from what I have seen in the newspapers that the vast population in our part of the world shares this view, it is poor service to all of them to leave this matter in such a way that the original factors are forgotten. And then the Security Council fixes its mind upon

two words, “plebiscite” and “demilitarisation” – two disembodied ghosts, who must seek sustenance in a large number of misrepresentations.

What is more, we ask the Security Council to give us the answer that we can give to our people. What is the value of the assurances given to us by the Commission, on the basis of which alone, and I repeat, on the basis of which alone we accepted these documents? My Government would never have accepted the documents except in the light of those assurances. What would have been the answer of my distinguished colleague of the Philippines, if at that time we said: “Oh, no, your assurance is not good enough for us.” Then we would have been told: “You are unreasonable.” Were these private assurances? No, they are in the form of publications in the same way as are the official records of the Security Council.

I ask the Security Council to reconsider the submission made by General Romulo the other day (768th meeting, para 101) that we were not correct in thinking that there was something casual about the way in which this was treated. That is not so. But we are conscious of the multitude of people involved. If there is one thing in our country today, our people, large or small, leaders, big or high or low, they are conscious of the pulse of public opinion. There is this enormous political, civil, social consciousness in our country. We would not by any step we might take, however unpopular we may be at the time, however much we may appear not to be listening to the majority that speaks here, we will not throw our hand in on the side of violence. There is a duty laid upon you today: not for injunctions upon us but injunctions upon them to withdraw from the territory, to stop this campaign of hatred, to rescind the provisions of their Constitution, to restore the local authorities, to place them under the United Nations Commission in order to enable the Government of India to protect the frontiers of India and the trade routes as are necessary. These are the obligations that rest on the Security Council. This is my submission.

Afternoon Meeting⁴

I am grateful to you, Mr President, for the opportunity which you have given me to intervene again. In the interests of the Government of India, I have to say that if, after the observations which I submit, the representative of Pakistan were to offer observations, I would be entitled to reserve my position to reply to them since this Council has now been convened at the request of Pakistan. I recognise that we cannot go on interminably answering, but we are in the position where the session has been convened at the request of Pakistan and the draft resolution before

⁴ In the debate on draft resolution S/3787, introduced by Australia, Cuba, the United Kingdom and the United States. *Official Records of the Security Council*, Twelfth year, 773rd meeting, pages 12-28.

the Council is in its support. Therefore, the right of reply rests with us so far as it goes.

There have been number of statements made, and the position of my Government here, as I have said several times before, is that the Council has kindly invited us under Article 32 of the Charter. Therefore, the Government of India does not propose to take on the draft resolution, of support or opposition because it is not required to do so; but it is entitled to offer its observations as to what it would do, what it thinks about the draft resolution, what the consequences would be. In doing that, I have no desire to make another intervention of any length, but merely to deal with what has been said since I intervened this morning (772nd meeting). In so doing, if I may be permitted, I should like to proceed in reverse order, dealing with the last two military allies of Pakistan, the Philippines and Iraq, who have spoken, and come to the main proposals afterwards.

“Single and Continuous Process”?

The representative of Iraq, who made a very courteous and gracious reference to me, for which I am grateful, has brought this matter to the forefront. He used the words “a single and continuous process” (para 4 above).

This arises from the position of Mr Graham – and again I say that we regret not having heard him at this meeting, so far as my Government is concerned – and it enables me to say two things. First of all, the interpretation of a single and continuous process that the representative of Iraq places upon the resolutions is as erroneous as almost every interpretation he has placed on all Security Council decisions; that is to say, it takes the Pakistan view of it, which has not either been accepted by the Commission in the past or is supported by the basic decisions. What is more important – and we want to put this into the record – the Government of India is no longer committed by any intermediate discussions that have taken place, by any hypothetical propositions that have been put to them, or by any mathematical calculations made by Mr Graham at various times. All these things were part of the procedures to find a settlement.

If the bargain had been closed, we would be bound by it. We have been bitten so many times (especially when we just heard the representative of the Philippines on whose statement I shall comment in a moment) we have no desire at all for the Security Council to misunderstand our position. It is wrong to say that some advance has been made in regard to demilitarisation. The only advance that has been made in regard to demilitarisation – and it would be useful for the Council to know it – is the voluntary withdrawal by the Government of India of large numbers of

troops from Kashmir since cessation of hostilities – for which the Council has not been gracious enough to say one word of appreciation – without any conditions whatsoever.

With regard to these references to a single and continuous process, simultaneous withdrawals, synchronised arrangements, all these things and all these words have been differently interpreted by the United Nations Commission for India and Pakistan, by the United Nations representatives afterwards; and whatever discussions may have taken place, either in New York, Geneva, New Delhi, Karachi, Paris, or anywhere, they are all today only part of historical material; they do not commit the Government of India to anything, because there was no closing of any bargains, and it should not be said afterwards that where it is advantageous to one side that is taken as a commitment, and where it is not advantageous it is pointed out against us.

Therefore, the only engagements from which we can proceed in so far we can do so, are the engagements to which we are parties, in the context of all the circumstances submitted. Therefore, I would like this particular factor to be written into the record so that in the event of the matter coming up again, or having anyone else intervening, whether it is your distinguished self, Mr President, it should not be thought that now we have gone back on something else, because unless this attitude is taken, it is impossible to discuss anything, any *pro tem* proposition, any exploration; any thinking aloud becomes dangerous because at that moment we will be pinned down to it. What is more, the whole surrounding circumstances have to be taken into an account.

I prefer to make no further references to the intervention by the representative of Iraq because it will take too long, except to say that the whole analysis is contrary to the facts of the case, contrary to the commitments made by the Commission, contrary to the principles of the Charter, and contrary to the assurances given to us. It is statement of good advocacy on one side, for which we have respect but for which we cannot be grateful.

The Position of the Philippines

With regard to the Philippines position, we repudiate, and emphatically repudiate, and will continue to repudiate the position that the United Nations has not at all times been committed to the position of the sovereignty of the Jammu and Kashmir Government, of the competence of the Government of India, of the Union of India, for its external defence and its foreign policy, and for the position that whatever may happen in the final settlement, until that final settlement is reached, it is part of India. That is why the Plebiscite Administrator had to be appointed by the

Jammu and Kashmir Government. That is why, as I said this morning, we became responsible for law and order. We could go into all areas of the State, and various other things were provided. That is an essential basis. It was not a contingent proposition. The representative of the Philippines – who, in spite of all the differences, is a good personal friend – is entirely in error in the reading of the facts in this matter, and we would find no impartial legal or juridical support for his position. If that position is taken, there is no basis for talking at all.

Besides, I want to submit to the Council, another proposition. As a former Governor-General of India said: “What is Kashmir, no-man’s-land?” My colleague says, in his very laboured attempt to establish equality of the two sides, that neither Pakistan nor India has sovereignty in this place (para 46 above). If it is no-man’s-land, that would be a very peculiar position. On the other hand, if neither of us had sovereignty, it will go back to the Maharaja of Jammu and Kashmir whose son is the President of the Kashmir State at the present moment. There may be some advantage in that, but we are not prepared to take advantage of it.

As regards the idea that the United Nations has some unexplored territory over which it is going to establish its dominion, may I say that the United Nations is not a sovereign body to do all these things. It is merely a conglomeration of Governments, to make recommendations to them especially under the provisions of the Charter with which we are dealing now, namely Chapter VI, to seek conciliation. I submit that the observations made by the representative of the Philippines are contrary to the basic arrangements, to the basic positions which are enshrined in the relevant resolutions, in the assurances and in all the proceedings that have gone on.

The representative of the Philippines makes a fundamental error, which he could easily rectify if he read the resolutions of the Commission. He says that the resolution places both parties on the same basis. That is exactly what it does not do. It places us on the same basis if by that is meant that both of us are involved there. It certainly does not place the parties on the same basis. In fact, it is just the contrary. It is exactly what it does not do. That is the meaning of all that has been argued before the Council, of all the assurances given by Mr Lozano as Chairman of the Commission, and of the words that are written into it, and any documents must be interpreted in their natural meaning.

Therefore, the submissions that are made are entirely contrary to facts and to the law that obtains in this case. There has been no achievement of demilitarisation except as I said: the voluntary withdrawal of a considerable part of the Indian Army that was there at the time of the fighting. That was not done under the orders of the United Nations, but

because we thought that was the best thing to do. That is the demilitarisation that we have carried out. It is also part of the general cutting down of forces.

There is an attempt in the statement made by the representative of the Philippines to establish equality of status. This is what Pakistan has been trying to do for a very long time, but it has not found such obvious advocates in this Council until now. Now therefore, we, as the Government of India, completely disassociate ourselves from and emphatically repudiate these statements in so far as they are contrary to the Charter, contrary to the resolutions, contrary to the assurances, and contrary to good conscience.

That takes us to the two main statements. I will leave aside the statements of the representative of the Soviet Union and the representative of Colombia because they are not advocates of the resolution, which is what you are considering. But wherever the United Nations forces appears in this context, my Government has already expressed its position. Therefore, perhaps, before I deal with the statements of the representatives of the United Kingdom and the United States, it would be advantageous to me to make this position clear.

United Nations Force Inappropriate

The Secretary-General is not a jurist; he is not a law-giver or anything of that kind; but when the Secretary-General submits a report and it is accepted by the United Nations, then it has a different value. And here I refer to document A/3512 dated 24 January 1957 with regard to the use of the United Nations Emergency Force. And this is what the Secretary-General said:

“(b) The use of military force” – there has been no suggestion that it is going to be boy scouts or the Red Cross or the Ladies of the Order of the Golden Cross or anything of that character – “by the United Nations other than under Chapter VII of the Charter requires the consent of the States in which the force is to operate. Moreover, such use must be undertaken and developed in a manner consistent with the principles mentioned under (a) above” –that is, that there should be no change in the *status juris*.

Sub-paragraph (a), which I do not want to labour in the Council, definitely refers to the fact that there should be no change resulting from military action. It says: “The United Nations cannot condone a change in the *status juris* resulting from military action contrary to the provisions of the Charter.”

But this is exactly what is being done. Pakistan invaded by military action – it was not welcome as a liberator – it invaded the territory and by annexation changed the position; and if the points raised by the representative of the Philippines were to be followed, then this would be an attempt to change the *status juris* as a result of military invasion. Therefore, the Secretary-General's authority, which has gained sanctity because it has been accepted by the General Assembly, is very much a point to be taken into account.

The next passage is even more important from some points of view where it continues:

“It must, furthermore,” – and I am sorry if the Secretary-General feels embarrassed by this – “be impartial in the sense that it does not serve as a means to force settlement, in the interest of one party, of political conflicts or legal issues recognised as controversial.”

If that sentence is correct, there is not a more inapt context in which the United Nations force can be brought in.

Now of course it can be argued that no one is trying to send a United Nations force over there to force itself upon us. The answer is twofold – and I am sorry that my friend General Romulo who, by his career and by his knowledge of the problems of law and order, and perhaps of disorder, and by his knowledge of these problems, has not taken some note of what I said this morning, when he said that the whole plan as put forward by Pakistan, “deserves consideration” – “deserves”, I suppose, is the kind of phrase that usually has some sanctified significance, some holy merit attached to it. When it was put to us, the whole idea was that everybody else should go away – the Indian Army should go away, the Kashmir police and militia should go away, and everyone else should go away, and the Pakistanis also, except that of course forty-five battalions of the “*Azad*” forces would still be there. And then there would be a very good “banana fight” in the place. That is the position; that is to say, who is going to keep order in this place? When the representative of the Philippines tells us that it is not intended that it should use force, I ask what is it going to do there? Who is going to be responsible for law and order in this area? That is our responsibility.

I have quoted sub-paragraphs (a) and (b) of paragraph 5 of the report of the Secretary-General, and I will now proceed to (c):

“(c) United Nations actions must respect fully the rights of member Governments recognised in the Charter, and international

agreements not contrary to the aims of the Charter, which are concluded in exercise of those rights.”

These three sub-paragraphs, (a), (b) and (c) are conclusive in regard to the inaptness and the illegality of this; and what I have submitted in regard to the law and order problem does make the whole thing – I will not use any stronger words – totally impractical.

But over and above that, the United States and the United Kingdom who produced this draft resolution which has now been co-sponsored by others, had both private and public knowledge that the Government of India would in no circumstances agree to this. Therefore, to produce a proposition which requires the consent of the parties, in the face of our declaration that we will not agree to it, is either to take the view that what we say does not mean anything or that their persuasive powers would be so great that we would surrender our principles. I think that neither of those conclusions is justified. The Head of the Government of India, in a public declaration on its behalf, has said that we would not agree to the introduction of this force and, what is more, would view the introduction of this force even into the Pakistan-occupied area - which is our sovereign territory under enemy occupation, if only an enemy for purposes of Kashmir – as constituting a violation. What is more, I said before the Council on behalf of my Government, that any member State participating in the force, in so far as it acts contrary to the United Nations Charter, would be violating our sovereignty and coming in the way of our bilateral relations.

I refer to the Charter and I ask those who are responsible for the draft resolution to find me one word in Chapter VI, which is concerned with the pacific settlement of disputes, with reference to a United Nations force. There is none. Therefore, it is not possible, it is contrary to the Charter. It is only in regard to this that we want to refer to any amendments such as those of the delegation of Colombia to any part of the draft resolution, although this would be a very much milder proposition than that which has been put forward by the United States and the United Kingdom.

Observations of the United Kingdom

I would like next to refer to the observations made by the representative of the United Kingdom at the 772nd meeting. I would like to say that the statement made in support of the draft resolution is an attempt, in so far as words can do it, to try and make it palatable to us. Every attempt has been made by the very able representative of the United Kingdom to make this proposition something that we would buy, that the Government can tell the people is not too bad. But that does not take away from its character. The leader of our country who created our independence, Mahatma Gandhi,

told the Viceroy, Lord Irwin, when he produced a certain form for settlement at that time: "It is no use your giving me names; I must take it, I must weigh it, I must bite it, I must sound it, I must taste it and see what it is like." So we have masticated this during the lunch hour; and I pay my very humble tribute, but a great one, to Sir Pierson Dixon for the great dexterity of language in which this very difficult and unpalatable pill has been presented to us in the most agreeable fashion. There is no doubt in my mind that it is his desire and the desire of his Government that we should accept this because they probably believe that it will lead to something that they want. So far as the United Kingdom is concerned, there is no antagonism to India, but of course there is a long history whereby the whole of these problems are associated with our two countries.

I would like to refer to a passage of Sir Pierson Dixon's statement. May I say here, without lacking in deference to the Council, that in so far as we have heard them the debates on the resolution have been largely between the Soviet Union and the rest of the members, so Kashmir does not come in a great deal. But still there is some reference to the draft resolution in this speech. Now this is what Sir Pierson Dixon says:

" . . . by recalling all the resolutions, the present draft is designed to avoid arguments about the different weight to be given to previous resolutions. This, I should have thought, would be reassuring to both parties." (772nd meeting, para 146)

With the greatest respect, I submit that this is exactly what it is not. There is a difference in the weight of these resolutions. Resolutions which the parties accept and those which they do not accept are in different categories. The resolution of 17 January 1948, and the resolutions of the United Nations Commission for India and Pakistan, the assurances given, these are all resolutions which carry a greater weight – that is because we have accepted them, we are parties to them, whether we like them or not. Therefore, to suggest that there is no difference of weight is exactly contrary to the purposes in mind, namely, to create a receptivity in our minds.

One of the main objections to the draft resolution that we would have if we were members of the Security Council is, namely, that these resolutions have been recalled to rub salt in the wounds that already exist. They are things we have rejected over and over again. They deny propositions which have been admitted by the Security Council before and they embody violations of the Charter of the United Nations. That is one point I would like to make.

I am happy to welcome the statement in Sir Pierson Dixon's observations which says:

"I was asked to say why the resolution of 25 January 1957 had greater significance than that of 17 January 1948. My answer is that it has no greater significance." (Ibid., para 148)

This is the first time in the whole of this debate that a member of the Security Council has stated in definite terms that the 17 January 1948 resolution is sacrosanct. We welcome this and we hope the Security Council will pursue this matter. If the 17 January resolution is observed you will be in the beginning of a settlement.

I have already dealt with the problem of the United Nations forces so it is not necessary for me to refer to Sir Pierson Dixon's observation which says:

"It is surely in accord with the letter and the spirit of the Charter that the Security Council should tell the parties that it believes that this idea might, conditionally, deserve consideration." (Ibid., para 153)

My distinguished colleague said that it is deserving of consideration. I submit that it is a recommendation of something contrary to the letter and to the spirit of the Charter; and what is more, contrary to the very basis on which a solution can be found, namely, the agreement of the two sides. We have definitely said we will not agree to this. It is a Pakistan proposal which has been taken up by others.

We welcome the statement which is a modification of previous positions held by the United Kingdom. The representative of the United Kingdom said:

"Demilitarisation in this context means simply the process or procedures for withdrawing troops as laid down in the resolutions of the United Nations Commission for India and Pakistan." (Ibid., para 151)

I want to ask my distinguished colleague, either publicly or privately, if it means that, then why not start with the first part of the resolution of 13 August 1948? That is where it was intended to start because it is only after the first is completed that the second part comes into operation. And it is only when the first and second parts are completed that the third comes into operation. If the demilitarisation in this context means the process or procedures for withdrawing troops as laid down in the Commission's resolutions, why not do it? The mistake in this matter, for which we are to

certain extent responsible, has been in talking at the wrong end and getting into this higher calculus about quantum and forces and things of that character.

Therefore, if “demilitarisation in this context means simply the process or procedures for withdrawing troops as laid down in the resolutions of the United Nations Commission for India and Pakistan”, may I take it that the United Kingdom now subscribes to the immediate operation of part I, paragraph B and E, of the resolution of 13 August 1948. That is not demilitarisation, but it is connected with it. I would like to say and I hope it will be conveyed to the Government of the United Kingdom, I have no doubt it will be, that we cannot accept the view expressed in the conclusion that the draft resolution before us prejudices no position, because it is merely a request to us for a matter deserving consideration. I ask in all fairness: look into the history of this case. Whenever we have looked at something, we have been told that we have bought it. Now if this idea is introduced in the document which has all the sanctity of a Security Council resolution, we get involved in this matter. Therefore, we cannot agree to the position that it prejudices no position, especially in view of the colleagues whom the United Kingdom has been able to obtain in support of the proposition. It has the virtue that it bridges the Indian election, without halting all the attempts to find a solution during that period. We are grateful that it is more or less agreed on all sides that the Government of India would not be able to give consideration to any matters of policy until the elections are over. For that we are very grateful and we express appreciation. The other part, I will come to when I am dealing with the last of these observations, namely, the question of its effect.

The Statement of the United States

That takes us to the statement made by the representative of the United States at the 772nd meeting. We are here in extreme difficulty. We have, right through this debate, in view of the sincere attempts we are both making to establish better good will in the world as between ourselves and other people, and in spite of the strong differences that exist between their policy and ours in regards to Asia, when the United States became a party to taking under protection all territories south of a particular parallel, been very careful not to drag in a great number of matters. Even at this stage we do not propose to lift the whole curtain, because the way of conciliation does not lie in saying everything that can be said; but the duties to one's Government demand that what must be said has to be said.

Now here is part of the statement made by the representative of the United States at the 772nd meeting. I am very sorry my distinguished colleague,

Mr Lodge is not present; that, however, makes no difference because it is a statement of the United States Government. It reads:

“Now, the cease-fire is in effect. But it is the failure to reach agreement on the terms of a truce that has prevented further progress towards a plebiscite.” (772nd meeting, para 112)

I would say with great respect that this totally ignores everything that the Government of India had to say this morning. I think it is deserving of courtesy between two friendly nations that at least those arguments should have been entertained and if necessary argued and rejected. Our position is that part I has not been observed. Now when the distinguished representative of the United States says, “the cease-fire is in effect”, if he means thereby there are no hostilities, we agree. But that is not what it says. Part I – “Cease-fire order”, that is the heading – part I, paragraph B, says:

“The High Commands of the Indian and Pakistan forces agree to refrain from taking any measure that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.” (S/1100, para 75)

Now that is what we have been doing for nine years. Therefore, our position, as I stated categorically this morning, is: it is a violation of part I, and it is the duty of the Security Council in our humble submission, being parties to this resolution, to take note of it. We have not succeeded so far in getting any expression of opinion from any member of the Security Council which in any way reflects upon the many acts of omission and commission on the part of Pakistan contrary to the Charter, contrary to the agreements and contrary to the resolutions.

Therefore, this is entirely erroneous. We want to enter a *caveat* against it: that we do not accept the position stated by the United States that the cease-fire, as far as it means part I of the agreement, is in effect. It is not in effect. On the contrary, it stands violated and continues to be violated, as it has been for the last nine years.

We are told that the four-Power draft resolution is designed to assist India and Pakistan to carry out the obligations which they have assumed and which they have reaffirmed before the Council. This would be a good occasion for me to dwell on a similar sentiment expressed by my colleague from the United Kingdom. This draft resolution not only will not promote the process of bettering relations and of finding solutions but will hinder that process. It will impose enormous burdens upon our Government in regard to our public opinion. It will have the effect of fomenting communal feelings in India. It is a draft resolution, I suggest,

that is just not of a healing nature, but one that is calculated to create irritation and suspicion and, what is more, to confirm the feelings in the minds of our people that there is no fair approach to this problem in the Council so far as India is concerned. (These are strong words, but I am asked to say them. I am only repeating what the Head of my Government has said.)

Therefore, the view that is stated here that this draft resolution is designed to assist India and Pakistan to carry out obligations is a wish we appreciate – we appreciate the sentiment – but, as far as facts are concerned, that is not so; it will have the reverse effect.

I come to the last of the observations by the representative of the United States. Before that, I want to express my regret to my colleague from Australia in regard to what I said about the United Nations force in Egypt. I notice now that there is only one resolution on which this country abstained. But my statement was cast in the mould that it was generally not in favour of this action that was taken at that time. In any case, the argument was that the two cases were not parallel. In one case there was the invasion of Egypt, and the purpose of the United Nations force was to remove the invaders. In this case, the invasion is by Pakistan, and it is the invader that is inviting a United Nations force. Therefore, you are not on the side of the householder, but on the other side, to whom you can give whatever name you like.

Military Agreements of the United States with Pakistan

The representative of the United States tells us:

“The United States values its friendship with India and Pakistan.” – So far as we are concerned, we have no doubt about that. So far as Pakistan is concerned, it is not for us to say. – “Reference has been made here to our relationship with Pakistan.” – We have, and I am afraid you will hear of it as time goes on. – “The United States is glad to be associated with Pakistan in collective security arrangements and to be assisting it in a co-operative defence effort. We have always attempted to approach the Kashmir problem on its merits, and we do not believe that our collaboration with Pakistan in area defence affects the merits of this case.” (772nd meeting, para 120)

I think it is a legitimate question for a comparatively large country like ours, with our neighbours who are not interested in this area defence and, what is more, have expressly pronounced themselves against it, to ask: How can it be a friendly act when the United States intervenes in our area, along with its allies, with one participant in what is called area defence?

How does this differ from the kind of protectorate that was proclaimed by Britain and France over various territories in the past, in which they took these territories under their protection? Therefore, we repudiate this idea of area defence. Area defence – in which area?

If this stood alone, it would not matter. But I would like you to listen to this and read this side by side with the view of the Commander-in-Chief of the Pakistan Army. Then, I think that you, in whatever way you vote – some of you, if not all of you – and certainly the peoples of the world will begin to understand that here in regard to Kashmir, while resolutions are being passed without any reference to realities, there is being fomented a situation which can lead to a great catastrophe.

This is an account of what General Ayub said on 15 December:

“In the event of a major war, Pakistan was not likely to send an expeditionary force.”

So all this furniture that was sent over is only for domestic purposes. It is not coming to anybody’s defence. It is not coming, I say to Sir Pierson Dixon, as the expeditionary force went to the Battle of the Marne in 1914. It is not going, as the Indian Army went, into the desert of Libya. This is a categorical statement. It goes on to say further that it is for the purpose of “the interior lines.”

Then, according to the report, General Ayub says:

“Pakistan’s potential enemies were a good deal stronger in potential and superior in number and in equipment. Therefore, we have got to have an army which is standing ready to take the field within a week.”

Now where will Pakistan go within a week? It could not be to the Soviet Union. It can only be next door to us. And we have statements of persons, to whom I cannot make reference out of respect to the Secretary-General, who have pointed out that the enemy of Pakistan lies to the south of Pakistan. There you are: “standing ready to take the field within a week.”

It does not stop. I am not going to read the whole of this. General Ayub continues as follows:

“I hope to have an army which is highly skilled.” – and that is the ambition of every general – “It is on that that the future of Pakistan will depend.”

That is a very pathetic phrase.

The report goes on to say:

“General Ayub said that... the American commitment was to give the Pakistan Army means to create certain units that would balance certain divisions. This programme has not been geared in. It is moving splendidly. It is a limited programme.

“A certain number of divisions had been allowed to be balanced. But there was enough manpower in the army to balance and double the number of the divisions, though that would perhaps require enormous amounts of money.”

Therefore, it is not a small arrangement that is being contemplated.

“A strong Pakistan Army would create an enormous amount of stability in this region.” – that is to say, the purpose, according to the Pakistan Commander-in-Chief; I do not charge this to the United States – “We could control a number of difficult situations in this region.”

We are probably in one of the difficult situations. Are we to assume that the United Nations – and certainly we do not assume the United States does - has come to the conclusion that the stability in a region is dependent upon its army? Stability in a region is dependent upon the economic well-being of the people, upon their contentment, upon the progress of democracy – by conferring, for example, upon the people in “Azad” Kashmir the power to express themselves instead of suppressing them. And here, we have a strong statement of Pakistan Commander-in-Chief that “a strong Pakistan Army would create enormous amount of stability in this region. We could control a number of difficult situations in this region.”

I have not come to the best piece of this. It comes now. This is what must worry everybody. The report states:

“General Ayub said that this was the first time that exercises envisaging the use of tactical atomic weapons were being staged in Pakistan.” – I did not invent this – “Hitherto, Pakistan Army studies have been confined to the studies of atomic warfare in the tactical field.

“To put our observations to the practical test this exercise is being staged.

“Conclusions and the technique of fighting in the nuclear battlefields would be evolved from this exercise.

“Exercise is being staged keeping in view the terrain in West Pakistan plains where riverine obstacles” - there are no rivers on the other side in the way of obstacles. They are on this side. I do not have a copy of a map to circulate, but you know where the riverine obstacles are – “are frequent. The battle has been developing during the past two months. Now the climax is about to be reached.” This is about army manoeuvres. “A riverine obstacle across which the ‘enemy’ is concentrated is to be crossed so that the ‘enemy’ concentration can be attacked from the rear with the tactical atomic weapons.”

I ask the Security Council to make its own estimate of whose rear. This is the position which we are facing. This is the position which we are facing in regard to the enormous quantity of war material that has gone there. Now we have, on the admission of General Ayub, the supply of atomic weapons to our area by a country that has pledged itself not to use its advanced atomic knowledge – its considerably advanced atomic knowledge over Pakistan or any other Asian country, for that matter – for military purposes. For our act of self-abnegation not to use atomic power for destructive purposes, we are threatened by the other side with attacks from the rear and, for the first time, exercises are taking place with atomic tactical weapons. Not a needle is given by the United States with a view to attacking us. But I submit that with all the power that the United States possesses – moral, physical, political, dollar and everything else – it would be impossible for them to control what Pakistan has, any more than a parent can control the use of a pistol or a penknife by a child. That is the position.

This is our reply to the remarks by the United States about the glory of that alliance. After all, there was no point of introducing it into the statement otherwise. My delegation has gone much further into this field than it had intended to go. The initiative was not ours. We deeply regret this aspect of the matter. I hope that the representative of the United States will not mind my saying this. It is the practice, which we derive from the father of our nation, to tell the other party what we are going to do. Therefore, in making these statements, we have informed the United States delegation that we propose to use these facts.

The Draft Resolution Will not Bring Peace

The Security Council is the master of its own procedure and its own decisions. It has heard many statements, some of them having no relation to the facts set out in the documents before the Council. The only question

to which thought must be given now is: what is the effect of all this? We came here under Chapter VI of the Charter; there has been no suggestion of using Chapter VII. We have not asked for it. It cannot be used against us because we have not invaded anyone's territory unless, of course, you were to accept the view of the representative of the Philippines that we have no business in our own area. To carry out that view would take a lot of doing, even here. Therefore, the only procedures that can be adopted are pacific procedures. The essence of pacific procedures is mutual consent. The Security Council after 20 January 1948 has time after time passed resolutions under the initiative of the United Kingdom, afterwards joined by the United States, and now jointly, which India not been able to accept. They have been informed publicly and privately that we have been unable to accept them, but the Security Council continued to pass resolutions without any reference to conciliation, without any reference to the possibility of acceptance, and, what is more, in this particular case a draft resolution has been presented which largely embodies the proposals that have been put forward by one side. This is not calculated to bring about a settlement. We hear phrases, even from General Romulo, that the two sides must decide on something themselves. But no one is helping us. The result of this decision and its effect upon the people will be once again that there is no conformity between the resolution and the ethical principles of the Charter and that something has gone wrong somewhere. That will be the result of this kind of procedure where you speak about demilitarisation when the invader has made further conquests and has reaped harvests from them, and not a whisper is evoked by the eleven nations gathered round the table. A part of our territory has been forcibly incorporated and over a million of our people are under suppression. What answer will be given to these matters by our people who will go to the polls to record their verdict? You will know by the middle of next month what our people feel about this.

I say in sincerity that both Sir Pierson Dixon and Mr Barco, in speaking for Mr Lodge, are entirely sincere in thinking that their presentation will assist in getting somewhere. But we are in this problem. How do we convey to our people that the proposal which reflects the views of the side which invaded us is a proposal that will bring about conciliation? It has been said there is no objection to looking at something even if it is not accepted. But every time we have looked at something we have been told that we have accepted it. We do not want that to be repeated.

I say, therefore, that the Security Council now takes upon itself another dose of serious responsibility. Let not General Romulo say that I was admonishing. I am here to represent the views of the Government of India. What is more, I am happy in the sense that I have no compunctions and no conflict of mind or conscience on this matter. I have read these papers, thousands and thousands of pages of them. I have spent nights and days

over them, and I have no doubt that any impartial and competent examination of these documents will lead to one conclusion only, and that is that the nine years of effort that have been spent by Pakistan in consolidating its conquest and invasion have been in violation of the Charter; that the Security Council has been invoked not in order to bring about peace but in order to be used as a sledge-hammer to strike another blow against us.

We make no threats. I repeat once again my final words: We shall not do a thing, whatever are our political, moral, ethical, legal or any other rights, which involves the use of force to alter situations. That is our position at present. What will happen in generations to come nobody can ever guarantee. I would like that also to be remembered, because some of us are drawing close to our end and others will come after. This may go on for a long time.

But while we will not do that, I want to repeat again that all the signs which I read out to the Council in the statements by General Ayub, all the information that we have about the massing of these troops, all that goes on in the lobbies of the United Nations, which members may see in the Press tomorrow – this is all an indication of a repetition of the processes of 1947. And again we shall be told in this Council that the Indian Army moved in first. I want to be perfectly frank with the Council, as I am sure my Government would want me to be. We have no irregulars, we have no guerrillas, we have no bandits – we have no one except our regular army and our armed police force to meet aggression. On the other side there are the irregulars, the bandits, the people who have committed rapine and plunder, people who raped and murdered others of the same faith, the people who talk about co-religionists. They are the pioneers and the forerunners of the new invasion. We have to meet them with regular troops, and the regular troops are identifiable. Let it not be said in the Security Council at any time that the Indian Army moved in first.

I pledge the faith of my people that if our territory is attacked, we shall defend it to the last man. All these threats that have been made in the Council will only create irritation. We deeply regret, as my Prime Minister has said, the resolution adopted by the Security Council on 24 January in regard to the Constituent Assembly (S/3779), the same Security Council that would not lift a finger when half the territory was incorporated. And here we have done nothing unconstitutional and have made no physical change from the position of 1947. Sir Pierson Dixon, however, believed that we were doing something wrong and he accepted the crisis atmosphere.

I therefore beg of Sir Pierson Dixon to realise that whatever arrangements he may come to so as to push this thing through and to hand over to India

what amounts to a non-conciliatory effort, what amounts to a Pakistan proposal, will not bring about peace. However, whatever resolution the Security Council may adopt, however hostile it may be to us and however much we may not be able to accept it, at no time has the Government of India said that it would not look at it.

So far as the President of the Security Council is concerned, he is welcome in our country at any time, but his terms of reference have to be examined in a political context. That is why, as the people who are most effected by this, we say to you, before you take another step which may worsen the situation – a situation already bad – which feeds the dogs of war, which encourages the forces of conflict and, what is more, at a time of a great national election when 200 million people are in the process of political awakening, which conveys to them feelings which have relation to communal tensions, to Hindu-Muslim feelings or the intervention of other peoples or the past relations of Britain with India or theories about relations with other countries and with regard to military alliances, that all these things are fraught with great danger.

We have no right except to plead, because we are not members of the Council. We cannot give you counsel. You have asked us to express our opinions, and our opinion is that this is a step fraught with danger.

21 February 1957⁵

I am deeply beholden to the President and to the Council for their kindness in allowing us a few minutes in which to think this matter over. We think that there is considerable merit and cogency in the statement made by the representative of Colombia and the representative of the Philippines to the effect that at this stage further detailed debate consisting of answering controversial points raised is not only not of value but, perhaps, not appropriate in view of the protracted proceedings. It is the intention of my delegation, therefore, not to take that course.

Thanks to the very kind courtesy of the delegation of Pakistan, we have been able during the recess to look at the script of the statement which the representative of Pakistan made before the Council. It is necessary, for purposes of record, for us to say that we dissociate ourselves totally from a large number of the statements contained in it – the approach that is made to the problem – and to point out the fact that the statement itself really reopens the whole ambit of the discussion and that, therefore, any piecemeal reply to it would be unsatisfactory.

I shall, therefore, confine myself to the draft resolution that is before us (S/3792 and Corr.1).

With regard to this draft resolution, the position of my Government is what I have repeated several times before. We are not members of the Security Council. We are only asked to offer observations. We have already referred to the facts. It is my duty to tell the Council that the draft resolution will be communicated to the Government of India, and that the Government of India will take it into consideration, with such advice as we are able to receive from you, Mr President, because the draft resolution places you in a particular context. The statements made at the 773rd meeting by the delegations of the United States and the United Kingdom – or other statements – do they form part, in any sense, not of the draft resolution but of your mission? So far as we are concerned, there are several points which we have to make clear, and I shall do that in a very few minutes.

First of all, the only resolutions in which my Government feels engaged – and I use the word “engaged” deliberately – are those which it has accepted. For resolutions passed by the Security Council under Chapter VI of the Charter have no binding effect upon member States unless they consent. We have rejected them, and indeed the Commission, after our rejection, had proceeded on the basis that we had not accepted them. Therefore, while we cannot object to this exercise

⁵ On draft resolution S/3792, introduced by Australia, the United Kingdom and the United States. *Official Records of the Security Council*, Twelfth year, 774th meeting, pages 5-8, 13-14.

by the Council of recalling resolutions, what its value is would be for the Security Council to decide in the future.

We deeply regret what is in our opinion the unnecessary and provocative pinpointing of the resolution of 24 January 1957 (S/3779), especially as the generic phrase “its previous resolutions” had been set out. The same applies to the words “having regard to the previous resolutions of the Security Council.” My Government freely confesses that the Security Council must have regard to its own resolutions, but so far as member States which are not members of the Security Council are concerned, when proceedings under Chapter VI are being pursued, its relevance to them is based upon consent. That is all there is to it.

Fundamental Considerations

I wish to state that our approach to this problem is based upon the following and the fundamental considerations which have been advanced before the Security Council from 1 January 1948 until February 1957.

First, the State of Jammu and Kashmir is a constituent unit of the Union of India by law, by equity, by every moral and political consideration, and the only authority that can legally separate the State is the sovereign Parliament of India. This is not only municipal law, but law which must be recognised as international, more particularly by the delegations of the United Kingdom, the United States, Australia and France, which have recognised in their legal systems that municipal laws which obtained currency automatically become part of international law.

Secondly, there is the principle that the territorial integrity of the State of Jammu and Kashmir is inviolable. We cannot accept the situation of so-called *de facto* occupation mentioned in the statement of the representative of Pakistan. The sovereignty of the Jammu and Kashmir Government over the whole area, the responsibility of the Government of the Union of India for the security of the Union as a whole, are basic factors from which we cannot depart. Neither can we at any time abandon the commitments we have made in the light of deliberate and public assurances given to us, which are part of the consent that the Government of India has proffered to the propositions placed before it.

Equally, in the conditions of today, India cannot afford to disregard – as no country can, in the conditions in which we live, afford to disregard – the internal and the external security of our land. And under that heading there must be included in the account the enormous amount of war material that has come into Pakistan through United States military aid and which includes, as I said yesterday (773rd meeting, paras 103 to 108), either the present or the future possibility of the use of tactical atomic weapons, to which the Commander-in-Chief of Pakistan referred.

These and the other factors set out in the statement I made yesterday on behalf of the Government of India are part of the approach of the Government of India to this problem.

At the same time, I repeat two propositions: First, the President of the Security Council will always be welcome in India. The hospitality of our land and the courtesies of our Government would be at his disposal. Secondly, India is not in a position – and I say this not with any desire to cause delay – to consider any matters of high policy until a new Government is established in the country, which will take place, at the earliest, in the latter half of March.

I shall not take the time of the Council any longer except to reiterate these conditions. But it is appropriate to point out two things. Any new attempt in this direction, if it is even to open the first pages of a new book, has to start with the calling off of the dogs of the war of hatred. We will not sit under the crusade of a “holy war.” Secondly, I want to invite the attention of the representative of the United Kingdom to a dispatch that has come from Muzaffarabad, in West Kashmir, which is the Pakistan-occupied area. This dispatch appeared a few days ago in the *Daily Telegraph* of London. It points out that “Azad” Kashmir forces, which are technically under the Pakistan General Command, are stated to number 35,000, and it goes on to say that the Minister of the “Azad” Kashmir Government “claimed that this figure could be increased overnight to 80,000, of whom 70,000 are trained ex-soldiers.”

These are all well-known facts, as are the facts about the vast quantity of munitions, of war material, that has flowed into Pakistan, and they are to be considered against the background of the statement made by the Pakistan Commander-in-Chief about tactical atomic weapons in order to deal with the enemy across the “riverine obstacles” (773rd meeting, para 108). (I am sorry that Mr Lodge was not here during the 773rd meeting, but I am sure this has been conveyed to him.) In those circumstances, the sovereign duty and responsibility of any country is to look after its security.

Finally, I should like to say that I will take steps to communicate the Council’s resolution to the Government of India, which will take it into consideration as soon as a new Government is formed after the general election.

Second Intervention at the Same Meeting

I am not going to make another statement. There are a couple of sentences which I wish to add to my previous statement.

One is that whatever I have stated today on behalf of the Government of India is not in any sense to be regarded as superseding the statements made over the past several days, but as only arising from them, and the whole of them are relevant in any future consideration.

The second is a point which escaped my mind, as I was not speaking from notes. It is that whatever considerations the Government of India may have given to or even whatever provisional sympathies it may have expressed with certain proposals of exploration during the last seven or eight years, they are not binding upon our Government for two reasons. First of all, they arose in the course of long discussion with all the surrounding circumstances that have taken place in different conditions – and whether the friends around this table like to accept the view or not, changed conditions have to be taken into account. Therefore, no exploratory, hypothetical consideration or propositions that we might have put forward or entertained or considered or viewed with sympathy in the past are binding upon our Government. My Government is most anxious that in no circumstances should we lay ourselves open again to what we regard as the erroneous suggestion that we are going away from commitments. Therefore, we have to be doubly careful in any exploration of this kind.

I want to thank you, Mr President, and the Council for the patient hearing that you have given to the views of the Government of India. If, in the course of arguing a very legitimate but a difficult case before a comparatively hostile Council in regard to our point of view, we have had to take up firm positions and reiterate them with a degree of firmness, I hope that we have not said anything that may be regarded as unparliamentary or that has caused any ill feeling; and that the discussions in the past few days will have assisted to clarify the problem and the position of the Government of India.

Finally, of all the people around this table and of all the member States of the United Nations, our Government, our people, are far more concerned about the safety and the stability of our land and the millions of people that inhabit it. At no time, in the rather strenuous circumstances in which we live today in our part of the world, can we throw that consideration to the winds.