

PRIVATE MEMBER'S RESOLUTION**Increasing erosion of federal principles in Centre-State relations due to the Union Government usurping the powers of the State Governments**

SHRI S. RAMACHANDRAN PILLAI (Kerala): Sir, I beg to move the following resolution:

"That this House expresses its deep concern over the increasing erosion of the federal principles in Centre-State relations due to the Union Government usurping the powers of the State Governments."

Sir, I move this resolution to bring to the notice of this august House this important subject of Centre-State relations and also to bring to the notice of this House the growing erosion of the powers of the States because of the commissions and omissions on the part of the Central Government.

Sir, this issue of Centre-State relations is intimately and inherently connected with the issue of unity and integrity of the country. Sir, our country is a heterogeneous land of diverse languages, culture, ethnicity and history. If we look at the whole history of India, we can find periods of unity and stability and also we can see periods of dissensions, chaos and fragmentation. Sir, there were many attempts in the past for over-centralisation, but all those attempts proved counter-productive. On the other hand, these attempts were met by a chain reaction from the divisive forces. It is also a fact. If we look at the whole history of India, our provinces and our local bodies enjoyed, in the past, autonomy and more powers. The whole history from the Mauryas to the Mughals was a proof of this. Sir, when the Britishers came to India, when they started establishing their power in India, they tried to concentrate all powers at the Centre. All those attempts were resisted by the people; and they were forced to give more autonomy and powers to the States.

Sir, after Independence, in 1950, the Constitution came into existence. Its provisions elaborately deal with the issue of Centre-State relations. I am not going into those provisions. We have, on many occasions, discussed about those provisions. The essence of Centre-State relations is brought out by the report on Centre-State relations, in a brief manner. I would like to quote a paragraph from the report on Centre-State

relations. This report is commonly called the Sarkaria Commission Report.

Page 9, paragraph 1.3.04 deals with this particular aspect:

"The Constitution, as it emerges from the Constituent Assembly in 1949, has important federal features. But it can't be called federal in the classical sense. It can't be called unitary either. It envisages a diversified political system of special type. According to Dr. B.R. Ambedkar, Chairman of the Drafting Committee of the Constituent Assembly, it is unitary in extraordinary situations, such as war or emergency, and, federal in normal times. Some authorities have classified it as a quasi-federal Constitution. However, these labels hardly matter, as both levels of Governments derive respective powers from a written Constitution, which is supreme and there is a Supreme Court to interpret the Constitution. "

So what do we derive from this? One of the important elements of the Constitution is its federal nature. It is also a fact that the Constitution contains elements of Central domination over the States. Sir, I consider federalism or multi-level governance as the best founding principle of politics. It has two main advantages. One, each individual unit derives strength from the unity; on the other hand, each individual unit can retain its autonomy and specific identity. So, it is a blend of these two qualities.

Sir, for building better Centre-State relations, the Union and the State should work in tandem, for the common welfare, on the basis of cooperative federalism. We should also try to strengthen the institutions and conventions. Sir, instead of strengthening the federal principles, there is a growing trend on the part of the Central Government is concentrating more and more powers at the Centre, usurping the rights and powers of the States. Sir, this trend is dangerous to the unity and integrity of our country. This trend is dangerous for good governance of our country. This particular aspect is very picturesquely and vividly dealt with in the Sarkaria Commission Report. I would like to read that particular part about the growing trend of over-centralisation in India.

On page 534, paragraph 21.2.07, it is stated:

"Since for reasons explained elsewhere in this Report, there is a general tendency towards greater centralisation of powers, there is special need in a country like India for a conscious and purposive effort to counter it all the time. There is considerable truth in the

saying that undue centralisation leads to blood pressure at the Centre and anaemia at the periphery. The inevitable result is morbidity and inefficiency. Indeed, centralisation does not solve but aggravate the problems of the people. "

Sir, this is what the Report on Centre-State Relations states about over-centralisation. This is what is really happening in our country and because of the over-centralisation, the fissiparous tendencies are gaining strength and the divisive forces are making use of it. Even the foreign hand gets an opportunity to intervene and make use of the present situation for their fissiparous aims. You transfer more powers to the States. Now, after 73rd Amendment of the Constitution, the Panchayati Raj Institutions have come into existence. We have to devolve more powers to the States and the States should also give more powers to the Panchyati Raj institutions. It does not mean that we stand for a weaker Centre and we stand for stronger States. No, not at all. We stand for a strong Centre, strong States and also strong Panchayati Raj Institutions. In this connection, I would like to bring to the notice of this august House a note prepared by the Communist Party of India (Marxist) for the conclave of the opposition parties which was held in Sri Nagar on October 5-7, 1983. I would like to quote one paragraph from that proposal of the Communist Party of India (Marxist) on the question of Centre-State relations. It says, "We stand for the unity of the country and fight all forces of disintegration. We definitely stand for an effective and efficient Centre capable of defending the country, organising and consolidating its economic life and adequately armed with powers to discharge its other jobs like foreign policy, communication, foreign trade, etc."

So there is no doubt about it. We stand for a stronger Centre. We also stand for stronger States and stronger Panchayati Raj institutions. That can find solution to the problems, that can bring the unity of the people and that alone can keep the integrity of the country in this complex international situation. Sir, instead of strengthening the Centre and the States, the attitude of the Central Government through its commissions and omissions is of weakening both the Centre and the States. We can see two trends; on the one hand, the Centre is trying to usurp, encroach upon the rights of the States and, on the other hand, the Centre is abdicating its responsibilities. That leads to a situation where fissiparous tendencies can gain strength and do harm to the unity and integrity of the country. Sir, firstly, I would like to deal with the aspect of over-centralisation on the part

of the Central Government. One of the most important issues is with regard to the division of fiscal powers. There is a consistent complaint on the part of the States that the division of powers on fiscal matters is balanced more in favour of the Centre than the States. The States have only limited fiscal power as compared to the powers of the Centre.

Most of the States are critical about these things and most of the States are asking for more and more powers the transfer of tax revenue, the institution of Finance Commission, the institution of Planning Commission, their sphere of activities, their decisions on the transfer of tax revenue and their decision on giving grants and loans. We can find that there is an over-centralisation of powers at the Centre. It is a basic structure of the Constitution *i.e.*, devolution of powers on this matter. Now, the Union Government is trying to encroach upon the limited powers that the States have, according to the present Constitution. The Central Government constituted the Eleventh Finance Commission, but, subsequently, made a change in the terms of reference, as additional terms of reference. The intention of the Central Government was to get a recommendation from the Finance Commission so that the Central Government can monitor the fiscal policies of the States. So, they made that change in the terms of reference and the Eleventh Finance Commission submitted its Additional Report. In that Report, it had recommended monitoring of the fiscal policies of the States, making use of the instrumentality of statutory financial devolution. This is a serious encroachment on the rights of the States in formulating their fiscal policies and instruments. There is another aspect to it. This matter was considered in the Inter-State Council, constituted as per the provisions of the Constitution. This matter was, specifically, discussed on May 20, 2000, in the Inter-State Council meeting. Many State Governments raised objection on this; at that time, the Additional Report of the Eleventh Finance Commission was not submitted. Then, the hon. Finance Minister assured the Inter-State Council that the Government would come back to the Inter-State Council with the recommendations of the Eleventh Finance Commission and a decision would be taken only after consultation. But, Sir, subsequently, there was no consultation at all. The Central Government, unilaterally, took a decision. Certainly, this is an encroachment on the rights of the States.

There is another threat. That is also coming in slowly. This is an encroachment, coming through the Finance Commission. Now, the Central Government is trying to encroach upon the rights of the States through the

instrument of the Planning Commission. Recently, the hon. Prime Minister's Economic Advisory Committee submitted a Report called, "Economic Reforms and Mid-term Appraisal." There, in that Report, there is a recommendation that from the Tenth Plan onwards, *i.e.*, starting from 1st April, 2002, half of the normal Central assistance to State Plans should be provided only on the basis of assessment of the fiscal reform plan formulated by the Centre.

So, through these two institutions-the Finance Commission and the Planning Commission-the Centre is trying to usurp the limited rights of the States, with regard to fiscal matters. This is a very serious matter.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please conclude, now.

SHRI S. RAMACHANDRAN PILLAI: Okay, Sir. I wish to bring to the notice of this August House the authoritarian trend on the part of the Union Government. The Union Government recently took a decision to recall the Governor of a particular State, that is, Tamil Nadu. The Union Law Minister went to the press and stated the reasons for the recall of the Tamil Nadu Governor. I would like to read the statement of the Law Minister, Shri Arun Jaitley. This appeared in the Times of India, dated 2nd July, 2001. Shri Jaitley said, "The Cabinet was of the opinion that the Governor failed to discharge her obligation to safeguard the Constitution in Tamil Nadu. Her report does not objectively reflect the situation in the State. She merely forwarded the views of the State Government. In fact, several portions of the report repeat verbatim the contents of the Chief Secretary's report to the Union Home Secretary." Shri Jaitley further said, "Though there was a clear defiance of the Central Government, the Governor had not sent any report on Saturday. Her report was silent on the constitutional impropriety involving the State Government and the State police going to the two Union Ministers' houses in the State, and assaulting and arresting them. The Governor's report, received today, merely forwards the reason given by the State Government for the arrest of the two Union Ministers. It is silent on the constitutional impropriety, involving the State Government and the State police." So, Sir, the Law Minister had explained as to why the Governor of Tamil Nadu was recalled. The Central Government, before getting the report of the Governor, took a decision. His

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main complaint was that the Governor's report was not according to the wishes of the Central Government. It was contrary to the expectations of the Central Government. Then, the Central Government decided to recall her. Sir, the Central Government actually went against the spirit of the Constitution. Article 156 of the Constitution provides for the term of the Governor. It states that the term of the Governor is five years. I would like to read that particular portion. It says, "(1) The Governor shall hold office during the pleasure of the President. (2) The Governor may, by writing under his hand addressed to the President, resign his office. (3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office: Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office." Sir, this article states that the term of the Governor is five years. Of course, I do agree that this particular article also refers to the pleasure of the President. This was discussed by constitutional authorities. This particular issue was also discussed in the report of the Sarkaria Commission.

I would like to read out that particular part from the report of the Sarkaria Commission-paragraph 4.708, on page 125 of the report of the Sarkaria Commission. It says "Further, the ever-present possibility of the tenure being terminated before the full term of 5 years, can create considerable insecurity in the mind of the Governor and impair his capacity to withstand pressures, resist extraneous influences and act impartially in the discharge of his discretionary functions." Sir, this is why the term of five years has been fixed. It further says "Repeated shifting of Governors from one State to another can lower the prestige of this office, to the detriment of both the Union and the State concerned. As a few State Governments have pointed out, Governors should not be shifted or transferred from one State to another by the Union, as if they were civil servants. The five-year term of Governor's office prescribed by the Constitution, in that case, loses much of its significance. We recommend that the Governors' tenure of office of five years in a State should not be disturbed except very rarely and that too for some extremely compelling reason. It is indeed very necessary to assure a measure of security of tenure to the Governor's office." The Sarkaria Commission also deals with another aspect, that is, the recall of a Governor. One is, before such a decision is taken by the Central Government, the Central Government should give a chance to the Governor

to explain his or her position. That was not done in this case. On page 126, a specific reference has been made with regard to this particular aspect. It says "Save where the President is satisfied that in the interest of the security of the State, it is not expedient to do so, as a matter of healthy practice, whenever it is proposed to terminate the tenure of a Governor before the expiry of the normal term of five years, he should be informally apprised of the grounds of the proposed action and afforded a reasonable opportunity for showing cause against it. It is desirable that the President (which, in effect, means the Union Council of Ministers) should get the explanation, if any, submitted by the Governor against his proposed removal from office examined by an Advisory Group consisting of the Vice-President of India and the Speaker of the Lok Sabha or a retired Chief Justice of India. After receiving the recommendations of this Group, the President may pass such orders in the case as he may deem fit." This is what the Sarkaria Commission says about this particular aspect, the recall of a Governor. It also says that if the Central Government takes such a decision, it should place a statement before the House. The next paragraph deals with this issue. It says "We recommend that when a Governor, before the expiry of the normal term of five years, resigns, or is appointed Governor in another State, or his tenure is terminated, the Union Government may lay a statement before both Houses of Parliament explaining the circumstances leading to the ending of his tenure. Where a Governor has been given an opportunity to show cause against the premature termination of his tenure, the statement may also include the explanation given by him in reply. This procedure would strengthen the control of Parliament and the Union Executive's accountability to it."

Sir, nothing is done on this issue. Since the Governor submitted a report, not according to the wishes of the Central Government, the Central Government immediately took a decision to recall her.

Sir, this is another trend. These trends are now gaining strengths. Now, in the present political situation, no single party is able to get an absolute majority at the Centre. So, this coalition politics has come into existence. The major political party is precariously depending on its allies, and the allies are exerting pressure on it; and, in order to keep the alliance in power, the Centre is taking such measures which are usurping the rights of the States. With regard to Tamil Nadu, this is the real cause for this thing. Now, the Central Government has taken another strange decision, namely, requisitioning the services of three IPS officers. Who are these three

IPS officers? Sir, these three IPS officers are : Chennai Police Commissioner, Shri K. Muthukaruppan; the Joint Commissioner, Shri S. George; and the Deputy Commissioner, Shri Christopher Nelson. A lot of sounds are being made that disciplinary action should be taken against them. Sir, the Central Government is requisitioning their services in this particular situation. I can agree with the Central Government, if the Central Government desires to constitute a special force specifically to arrest Central Ministers, then, this can be justified. ...*(Interruptions)*...

DR. Y. RADHAKRISHNA MURTY (Andhra Pradesh) : There is a drought of officers in Delhi.

SHRI S. RAMACHANDRAN PILLAI: Exactly; that may be the reason. Sir, this is not an administrative decision. This is a political decision. I do not want to read the portions of the Sarkaria Commission's report with regard to these All-India Services. It is specifically mentioned there that all such decisions should be taken on the basis of consultation. No doubt, the Centre can take a decision. But the Centre should consult the State Government and a decision should be taken on the basis of consultation. There is no such consultation. There is a pressure from an ally of the NDA Government at the Centre. Otherwise, they cannot keep their Government in power. So, they succumb to the pressures and counter-pressures of their allies. ...*(Interruptions)*... It is there, Sir. I can read those portions. It is there in the Report on Centre-State Relations. It is there. Sir, I also demand that in the present situation, some code of conduct for Central Ministers is absolutely necessary. Now, because of the present, complex, political situation, different parties are in power at the Centre and in the States. I am saying this because of our experience in Kerala. The Communist Party came to power in Kerala in 1957. And, subsequently, in West Bengal and Tripura also, the Left parties came to power. We found a lot of difficulties on the part of the Central Ministers.

Recently, in West Bengal, our experience showed that one former Central Minister's main job was not to look after her portfolio, but to create problems in the State. I do agree, in a democratic set up...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): You have already taken 40 minutes. Please conclude.

SHRI S. RAMACHANDRAN PILLAI: I am concluding. Of course, dissent is the essence of democracy. Right of dissent should be there. Everybody has got a right to come and voice his or her views. But here the

issue is entirely different. They are coming as an incarnation of the Central power and trying to threaten the administrative machinery there and creating law and order problems. In the present set up, it is absolutely necessary to frame a code of conduct for the Central Ministers, on the basis of the last 54 years' experience in running different Governments, both at the Centre and in the States. Otherwise, there would be unnecessary problems, strains, stresses and tensions. This will be detrimental to better Centre-State relations.

Sir, I am not going into the details of the other issues. With regard to sending a Central team also, this particular political angle is there. We can understand a Central team going to the States and assessing a situation. But Central teams are sent on the basis of pressures from the allies of the NDA. I feel, it will only add to the present strain in the Centre-State relations.

Even with regard to natural calamities, there are criticisms. A subjective element is influencing the decisions of the Central Government. The reliefs are distributed, not on the basis of an objective analysis of the existing situation, but a subjective element is there. Many times, the interest of West Bengal was neglected, the interest of Kerala was neglected, the interest of Orissa was neglected. We do agree that the demands of Punjab, the demands of Uttar Pradesh, the demands of Andhra Pradesh, are genuine and those should be acceded to. But, alongwith that, the needs of the other States, the demands of the other States, also should be considered judiciously. Now, these natural calamities have become a regular feature. In the present situation, to maintain objectivity, why can't we think of having on some institutional framework which will go into the objective situation and come to correct conclusions?

Sir, even with regard to the support price and procurement of foodgrains, there was negligence and discrimination on the part of the Central Government. We are in complete agreement on fixing a higher price for wheat and paddy, for allocating more funds to Punjab, Haryana and Uttar Pradesh. We are also fighting for that. But the rubber cultivators are being neglected, the coconut cultivators are being neglected and other crops are being neglected. Sir, we also see a political angle in such decisions. This is also creating an additional strain in the present situation. So, these are some of the elements usurping the powers of the States taking a discriminatory attitude on the part of the Central Government.

I would like to bring to the notice of this august House another important aspect. The abdication of the powers of the Central Government is also creating a very serious situation in India. I will not go into the details. Now, the Central Government has taken a decision.

It is going to stop the practice of procurement of foodgrains and supply of foodgrains procured by the Centre to the deficit States. Instead of continuing this, the Central Government is thinking of decentralised procurement. So each deficit State should go to the surplus State and purchase the foodgrains. The Central Government is stating four main reasons for this. "We are giving more powers to the State. The State can purchase wherever there is surplus foodgrains. So, we are giving more powers to the States." Another ground the Central Government is advancing is, "This will reduce the expenditure of the Centre". Another ground is, "In the surplus States, the peasants will get higher prices for their produce." Yet another ground is, because of this decentralisation, the Centre need not pay more for subsidies and other things.

I am concluding, Sir. If the Centre is abdicating its responsibility of procuring foodgrains from surplus States and supplying to deficit States and asking the deficit States to go to the surplus States and purchase them, Sir, this will have very serious implications to the unity and integrity of the country. Then there will be a demand. Assam is producing oil. Assam is producing gas. Already, of course, the demands are there. Why can't Assam go to the international market and sell its oil and gas and get foodgrains from the international market? Jharkhand may raise that issue. I am not advocating this, but, in the present complex situation, there is a possibility of such demands arising. Minerals are there. Coal is there. So, instead of selling here, why can't they go to the international market, sell it, make use of the money for purchasing foodgrains from the international market? Kerala, of course, is earning a lot of foreign exchange. A lot of Gulf money is also coming. Such demands may come. Kerala is a deficit State. It could go to the international market and purchase paddy. So, the Centre should not abdicate its responsibilities. It is not a simple question of procurement and supply to the deficit States. It is an issue of maintaining the unity and integrity of the country. If the Centre fails to play that role, India's unity cannot be maintained. Sir, through such economic transactions, voluntary transactions, interactions, we develop the feeling of oneness, the feeling of unity. If each State is allowed to play as it likes, this cannot be maintained. Both these forces should work together. So, on the one hand,

the Centre is abdicating its powers and encouraging fissiparous tendencies and on the other, the Centre is usurping the rights of the States. This has created a very serious situation. This has aggravated the stresses and strains in Centre-State relations. This is adverse to the interests of unity and integrity of the country. So, I urge upon the Government to consider these aspects and take up the responsibilities and give more powers to the States and also to the panchayat raj institutions. The unity and integrity of the country should be further strengthened.

The report of the Sarkaria Commission is also before the Government. Many of the recommendations are accepted. Of course, on certain recommendations, there are differences. But the Centre has not implemented even many of the accepted recommendations. So, I urge upon the Government to expedite the process of implementation of the recommendations on Centre-State relations.

With this, I appeal to the House to adopt this Resolution. That will encourage the Centre to take appropriate measures for strengthening the unity and integrity of the country.

With these words, I conclude. Thank you, Sir.

The question was proposed

SHRI PRANAB MUKHERJEE (West Bengal): I thank you, Mr. Vice-Chairman, for giving me an opportunity to participate in the discussion on the Resolution moved by my friend, Shri Pillai. Perhaps, this is the more appropriate House to discuss the Centre-State relations. As the Council of States, representing the States, we have not only to protect the interests of the States, but we have also to ensure that the Constitutional division of powers between the Union and the States, and now amongst the local self-Governments, is done as per the letter and spirit of the Constitution.

Sir, Mr. Pillai has very correctly pointed out that the Centre-State relations is not merely an academic or theoretical exercise. The experiences which we have gathered over the last 51 years show--and, I think, the House will agree with me--that despite many doubts, our concept of federalism has survived. When I say "our concept of federalism", I want to emphasise the observations made by the two important international scholars. Prof. K.C. Wheare, who is an authority on federalism, has, while describing the character of the Indian Constitution pointed out that the Indian Constitution provides and I quote 'a system of Government which is

quasi federalism, unitary State with subsidiary federal features, rather than a federal State with subsidiary unitary features'.

Another important scholar, Prof. Granville Austin, who, instead of using the phrase 'quasi judicial federation', used the phrase 'cooperative federalism', and by 'cooperative federalism', as the distinguished Members are aware of, Prof. Granville Austin considered the Indian Constitution as more of a socio-economic document than a legal document. He considered that in these cooperative federal structures, in most of the areas, the State Governments are the important agencies to implement the policies of the Central Government.

Of course, I am aware that there are critics who point out that not only over the years, in practice, in the Constitution itself, there is an inbuilt mechanism in which the Central Government has been provided with, what may be termed as, paramount power. As in the pre-Independence days, the relationship between the Viceroy, the representative of the British Crown and the Princely States was determined by the subsidiary alliance, and the Crown's representative was described as paramount power. According to Prof. Panikkar, the Indian Constitution provides paramount power to the federal Government, the Central Government. In fact, neither the word 'federal' nor the word 'Central' has been used in the text of the Constitution. The exact phrase used is that India is a Union of States.

The exact word is "Union". Prof. Panikkar has pointed out the power of the Union Government to issue directives under articles 256 and 257 and to seek compliance with the law passed by the Federal Parliament. He also pointed out that in case of failure by the State Government to comply with the directives of the Union, the authority to supersede the State Government under article 365 provides an in-built paramount power to the Union, in addition to article 355, which provides an obligation on the part of the Union Government to protect the State from external aggressions and internal disturbances, as also to assume the responsibility of the State administration under article 356, when the Constitutional machinery breaks down in a State. I am not going into the theoretical aspects. I feel, the time has come when we shall have to look into what the Constitution has provided for the functioning of the Union Government, the State Governments and, now, the Panchayats, and what improvements are necessary. In fact, Mr. Pillai has answered that question in his last point when he stated that the Central Government owed the responsibility of not only providing political stability, but also making its own contribution to the

economic development. This is the area where most of the criticisms are voiced. The Sarkaria Commission was appointed in 1983. It submitted its reports. Some of the recommendations have been accepted. Even the judiciary recognised the observations of the Sarkaria Commission, in the famous Bommai case and it has become the law of the land. Now, as Mr. Pillai has rightly pointed out, the Union Government cannot abdicate its own responsibility. The same thing applies to the State Governments. Can they abdicate their responsibility? Maintaining public order and enforcement of law and order is the responsibility of the State Government. But what is happening today? In order to conduct a Panchayat election, State Government after State Government is asking the Union Government to send the Central paramilitary forces. One can understand, if there is a serious law and order problem, where the State administration and the police are not competent to deal with it. In such a case, the deployment of Central paramilitary forces to restore public order and enforce law may be considered, but not for the routine ones, like holding the General Elections, maintaining the normal law and order situation, etc. If you depend more and more on the Central paramilitary forces, naturally, the Central Government would like to expand its jurisdiction. If there is a serious crime in a State, we, the Members of Parliament here, the political parties, their representatives, the Members of State Legislatures, demand that the Central agency be sent; the CBI should be put in charge of the investigation, not the State CID or the State IB. Somehow or other, the credibility of and the confidence in the State agencies are, surely, not adequate. This is one aspect on which we have to think very seriously. Because, these are the inherent rights of the States. The States must maintain them. If need be, the Centre should provide necessary technical support, financial support to help them to update their competence and capacity. But these responsibilities cannot be transferred to the Union Government.

As Shri Pillai rightly pointed out, there are two institutions, the Finance Commission and the Planning Commission, which are largely responsible for determining the transfer of resources from the Union to the States. The Planning Commission does it in the form of Central Plan Assistance or Special Problem Assistance under the Gadgil-Mukherjee formula which is still prevalent. The Finance Commission distributes the resources. You look at the evolution and how these two bodies have functioned over the years. If I remember correctly, the first Chairman of the Finance Commission was Shri K.C. Nyogi. He was the Union Minister from 1947 to 1950. After his resignation, after some time, he was appointed as

the Chairman of the Finance Commission. The recommendation of the Finance Commission was that the Union excise duties would be transferred only in the case of five items. Of course, in those days income tax was 50 per cent. Now from the 1st Finance Commission to the 10th Finance Commission, from the Nyogi Commission to the Pant Commission, you will not find a single Finance Commission which has not expanded the area of devolution. You will not find a single Finance Commission which has not expanded the scope of devolution. The latest one is, 28 per cent of the total kitty has been devolved. Yes, it can be expanded. It can be done. Shri Pillai was quoting from the Sarkaria Commission report. I would also like to draw his attention to one of the major observations made by the Sarkaria Commission itself. There is a popular belief that the Centre is always rich and the States are always poor. If you look at the growth of State taxes and Central taxes, as per the observation of the Sarkaria Commission, from 1951 to 1984 the elasticity of the growth of the Union taxes was 17.7 per cent and the elasticity of the growth of State taxes was 17 per cent. More or less, it was parallel in the long 33 years, from 1951 to 1984. But there has been a serious distortion both in the Central sector and the State sector, in inter-state planning. For example, in 1951-52, the contribution of income tax to the total Central tax kitty was 28 per cent. But today it is not more than eight to nine per cent. Sir, Rs. 1,63,000 crore is the total tax revenue of the Union Government in the year 2001-02. Sir, you know the figures of income tax. In 1951, 27 per cent of the State's total tax used to come from land. Today it has been reduced to two per cent. I am talking of the 1951-1984 period. There have been some variations from 1984 to 2000. Therefore, what is to be done is that, in a growing society, in a growing economy, you ought to identify the areas of resource mobilisation and adjust your tax and revenue policies suitably with these changes. And, if we can do so, surely, there is always a scope for adjustments here and there. Now, coming to the devolution through the Planning Commission's route; after all, though the Planning Commission is not a constitutional body, the master of the Planning Commission is the National Development Council (NDC). The NDC consists of the Union Cabinet Ministers and the State Chief Ministers. During my five-year tenure as Deputy Chairman of the Planning Commission, I did not find a single occasion where the Union Government imposed its decisions on the States, if there were no consensus in the NDC itself, including on evolution of the formula of the Central assistance. And, here, the most interesting part is, the evolution of the formula of Central assistance was also initiated by the States. From

1951 to 1969, there was no formula-based assistance; it was just a plain and simple assistance, on the basis of the project. Whatever projects the Planning Commission considered necessary, they provided the funds. Sir, in 1967, there was a major political change.

Mr. Vice-Chairman, Sir, I will take five minutes more and then I will conclude. I know that on this subject, many Members would like to speak, and this is a subject where Members can go on speaking for hours together. But I would like to have five or seven minutes more and then I will conclude.

Sir, the point which I am trying to drive at is that in 1967, there was a major political change; -- we are running an instrument; we are dealing with a system which is not a theoretical exercise to us, but it has a practical application -- as many as in nine States, non-Congress Governments came to power and, at the Centre, the Congress (I) Government was there. Then, a question arose in the NDC: "When you get a big irrigation project or a big road construction project or a big industrial unit, that itself is a favour which the Planning Commission is doing to the States, and we are to provide financial support to your projects where I may not get any benefit from that project itself." Then, the then Deputy Chairman of the Planning Commission, Shri Gadgil, was advised to work out a formula and then the Gadgil formula came into existence. In 1980, again, at the initiative of the State Governments, the formula was changed. Under the original Gadgil formula, it was decided that on the basis of population, 60 per cent of the Central assistance were to be distributed; then, it would be 10 per cent on major irrigation projects; 10 per cent on tax efforts; 10 per cent on special problems and 10 per cent on poverty; this was how the hundred per cent was to be distributed. In 1980, they said, "If a State gets a major irrigation project, then, that itself is a favour to it. Therefore, how are you going to give an additional 10 per cent to them? That 10 per cent should be added to poverty." So, the formula was - poverty 20 per cent; population 60 per cent; tax efforts 10 per cent and special problems 10 per cent. Again, in 1992, the Chief Ministers of some of the State Governments, including that of my good friend, Mr. Bhairon Singh Shekhawat, the Chief Minister of Rajasthan, pointed out, "If I perform better, if my fiscal performance is better, if my project management is better, there is no arrangement of incentives for me. What are you going to do?" Thereafter, again, the formula was changed and on performance criterion seven-and-a-half per cent was allocated. Then, additional

improvement took place; that was the concept of deviation and distance. Some of the rich States, like the State of Punjab, the State of my young friend here or Maharashtra or Goa or Haryana, felt that because they were rich, they should not be penalised perpetually. So, some formula was evolved whereby 25 per cent was to be earmarked for the ratio, 20 per cent to be distributed on the basis of deviation and 5% on the basis of distance. By deviation, it was meant that those States whose *per capita* income was lower than the national average, will get 20%, and 5% would be available to those States whose *per capita* income was above the national average, on the basis of distance.... (Time bell) I am sorry. I will take two or three minutes more. ...*(Interruptions)*... I would like to listen to others also.

Sir, the point that I am trying to drive at is that 5% would go to the rich States also, on the basis of distance, notionally. If Punjab has the highest *per capita* income, and the second highest *per capita* income is that of Haryana, then Punjab's income would be treated as Haryana's, and because of the distance between Punjab and Haryana, they will also get some assistance so that each State has an incentive to perform well and to make its own contribution. Therefore, the new formula has been suggested; I have also gone through it, and there are a lot of things to be talked about; but it cannot be approved unless the State Chief Ministers, in their collective wisdom, in the National Development Council, agree.

Now, I come to this other area on which we shall have to concentrate more, and this is about the biggest guarantee which you have talked. The biggest guarantee of the protection of the interests of the States had evolved in the 90's; that is, the State parties, the regional parties, are calling the shots at the Centre. I don't know whether it is a good or a bad development. But this is the ground reality. One could not imagine in 1980's that even if the DMK or the AIADMK got 25 Lok Sabha seats from Tamil Nadu, they could influence the decision making process at the Centre in any way. Even Choudhury Charan Singh's party, having 48 seats from UP, could, in no way influence the decision-making process of the Union Government because the ruling party had a very solid and substantial majority in the Lok Sabha. Therefore, the State parties and the regional parties could not influence the decision making of the Union Government.

But that scenario has changed. Over the last ten years, we find, whatever be the coalition, whether it is the United Front coalition or it is the NDA coalition, in coalition politics, one party cannot call the shots. It will

have to accommodate and it will have to depend on the State parties and the regional parties. It is true that, sometimes, they are subject to pressures. But, at the same time, sometimes, these pressures can yield good results also. From your point of view, I can give you one instance. In 1970, for the first time, the Preventive Detention Act was withdrawn because the ruling party at the Centre was in minority. At that time, I was a young Member of the House, sitting somewhere at the back. I am talking of 1970, 31 years ago. So, because of the persistent demand of the then Leftist leaders, including Mr. Bhupesh Gupta, the Preventive Detention Act was withdrawn because the ruling party required the support of some of the State parties. Therefore, these political changes that are taking place are to be kept in view. On top of it, after all, this Constitution was drafted by those persons who had long experience, not only in the national struggle, but even in the parliamentary system. They recognised that a country of this magnitude, with so much of diversity, with so much of pluralism, required, on the one hand, a strong Centre to protect the unity and integrity of the country and, on the other, they felt we must provide adequate elbow room to the States. Whether that elbow room is adequate or not, that debate, Mr. Vice-Chairman, Sir, will continue because if it has not been settled in the U.S.A. for over 200 years; even it has not been settled in Canada for a very long period of time. This debate is a healthy one and it should continue keeping in view our overriding priority for the national interest and ensuring unity and integrity, amidst diversity. Thank you, Sir, for giving me this opportunity to speak on this.

SHRI RAVI SHANKAR PRASAD (Bihar): Mr. Vice-Chairman, Sir, I am immensely grateful to you for giving me an opportunity to make my submissions on an issue of such great importance. I have the benefit of listening to a very erudite speech of Pranab Mukherjeeji, and also a very remarkable presentation by Shri Pillai. Sir, we have learnt a lot from what you have just said. Being a student of Law and Political Science, this area has interested me over the years, and I find a remarkable commonality in what you have said and what I am going to say, perhaps, for the reason that both of us represent two national parties.

Sir, as you rightly pointed out, the leaders of the Congress Party, in the forefront of the freedom movement, had always envisaged a strong Centre. I don't want to take the time of the House by referring to the various proceedings of the Constituent Assembly, but this is a hard fact that all the leaders who were deeply steeped in the history of India, always had

in mind that they must have a strong Centre. Sir, there was one break from this emphasis. And being a student of History, you would appreciate that in the year 1946, when the Cabinet Mission Plan came about, this Plan insisted on a very weak Centre, with strong powers to the States. And the Congress leaders, in their wisdom, to prevent the Partition, Sir, decided to accept the Cabinet Mission Plan. And when the Cabinet Mission Plan could not prevent the Partition, that was a very big lesson for the leaders of the freedom movement, that even though, for the sake of immediate independence, they accepted that, they were, in a way, ignoring the history of India. What has been the history of India? The history of India has been, over thousands of years, a strong Central Government capable of maintaining the integrity, security and sovereignty of India, at the same time, giving due recognition and respect to the diversity of India; whether it was the Mughal empire in about 600 years of India's history; whether it was the Mauryan empire. The British sought to negate it and they also learnt the lesson very soon that they have to have a strong Centre, but they have to recognise the local ambitions too. Sir, this historical background cannot be ignored.

Mr. Pillai, in his erudite speech, quoted from the report of the Sarkaria Commission. Sir, when I was just going through it, I saw the introductory preface, paragraph 1.2.20, at page 7. May I quote, Sir? It says, "The Constituent Assembly thereupon sharply reversed its approach and resolved in favour of a strong Centre. This reaction found an unequivocal expression in the Second Report of Union Powers Committee, dated 5th July, 1947. Now that Partition is a settled fact, we are unanimously of the view that it would be injurious to the interest of the country to provide for a weak Central authority which would be incapable of ensuring peace; coordinate vital matters of common concern. And the soundest premise of our Constitution is a Federation, with a strong Centre."

Sir, the point to note is that the framers of the Indian Constitution were very eminent men; profoundly learned, extraordinarily experienced in the working of the world Constitutions, yet, they went for a Constitution which was quasi federal, as some rightly pointed out. They went for a Constitution which gave certain special powers to the Central Government because this was consistent with the historical traditions of this country. About which the leaders of the freedom movement were eminently well qualified to understand. Now, when we come to the present situation, in the context in which Mr. Pillai has brought this Resolution, I have to highlight three things. We experience a very peculiar dilemma. I would highlight three

things:

- (a) There is a catastrophe like floods or earthquake in a State and no Central assistance is coming. What should we do?
- (b) There is a big turmoil in a State, chaos, as Pranabji pointed out, and Central forces are not being sent. What should we do?
- (c) There is a great lack of economic activity in a State. The Centre is not coming to the rescue of the State. What should we do?

These three are the contemporary realities of today. We should not ignore the implications of this reality. You can't have the cake and eat it too. You want the Centre to assist you in floods and earthquakes. You want the Centre to send forces to quell a riot or the breakdown of law and order. In all the States, we are experiencing similar things. Yet, you would say that the powers of the States are being usurped!

Sir, it is indeed a very sad development, in India, over the years, which needs to be taken note of. The States have not developed on their own; maybe, for political reasons; maybe, economic; maybe, social. But the fact needs to be recognised today.

I have a very interesting anecdote to share with you. Today, the problem of ISI has become a very important phenomenon, about which, fortunately, we have gone beyond communal considerations. A very important Minister of our Government shared this anecdote with me. Once, a Chief Minister of a State, not belonging to NDA, came to him. When the question of ISI came up for discussion, the Chief Minister himself said to him: "Mr. Minister, why are you not discussing with me the implications of ISI in my State?" He said, "I am so happy to hear this from you. I thought, you used to see ISI from the communal angle." The Chief Minister said, "No, it is a very serious problem and I wish you intervene and give it the priority."

Sir, it is a very good development. If the country's security can be considered without any reference to communal, regional or political considerations, then it would be a very happy sign. If that common understanding comes about, then there would be no reasons for any grievance that the powers of the State are sought to be taken away. Sir, we talk a lot about the powers of the State. But, may I put a question today?

What about the powers of the Municipalities and Gram Panchayats? Here, Sir, I would just like to mention article 243 to 243(ZC) of the Constitution. I need to appreciate the party of Shri Pranab Mukherjee which brought about this amendment in the year 1993, when the Gram Panchayats and Municipalities were given Constitutional status.

Now, Sir, when we talk about the powers of the State being usurped by the Centre, there is an ancillary issue which needs to be considered. Is not the State usurping the powers of the Municipalities or the powers of the Gram Panchayats or the Municipal Corporations? We know about a State, my own State. The last election to the Gram Panchayats was held in the year 1978, and it was held, in my State, after full 23 years, after the intervention of the High Court. There had been no elections to municipalities and corporations for the last nearly 19 years, though the Constitution says that the Gram Panchayat elections and municipal elections shall be held after every five years. They shall cease to exist after that.

I would particularly highlight article 243(H) of the Constitution, which talks about the power of the taxation of the Gram Panchayats; that is a very important provision and I would like to quote that. "The legislature of a State may, by law, authorise the Panchayat, to levy and collect and appropriate such taxes, duties, tolls and fees, in accordance with such procedure and subject to such limits, so on and so forth. May I ask a question? Have Panchayats been given sufficient powers in the matter of tax collection. This is a very serious matter. If we want genuine devolution, which I suppose Mr. Pillai wants, if we want *bona fide* decentralisation, I suppose which he desires, then we will have to go for genuine decentralisation. When I say so today it is because whole provision of this Constitution, Part IX, having such an extraordinary objective of having genuine decentralisation with Constitutional scheme of Panchayats and Municipalities has given a complete go-bye, I wish to highlight with full authority and responsibility at my command that we must recognise that all Municipalities and Corporations ought to be allowed to function in a time bound manner, they should be given power, they should be given the right to administer the aspirations of the people of their areas. Then, Sir, I hope(Time-bell) Sir, give me some more time. I will take only a few minutes. I will touch upon the larger issues which have been raised. Mention was made about the role of the Governors. It is a very debatable proposition; how Governors have been appointed, and how they have functioned. I think Mr. Pillai would recall the judgment of the Supreme Court in the Shamsheer Singh

case which has held that a Governor holds office at the pleasure of the Government of India. Sir, I am not going into the dispute of what happened in Tamil Nadu. That is a very contentious issue. I am on a larger fundamental issue. What is the role of the Governor? A particular leader who has held a responsible office is treated in a manner which cannot be called civil and for that there is a judicial affirmation of the District Judge's order condemning the manner of his arrest. The Governor is the Constitutional head of a State. She directs the report which the SP or the Commissioner gives to her. There is also the case of arrest of two Ministers of the Government of India, whether the Ministers were wrong or right that is a debatable question, but the shabby treatment meted out to these two Central Ministers by the police, like ordinary criminals was there for everyone to see. What is the extent of this power? Sir, I would like to raise more fundamental issues. Let us try to understand it objectively. There have been cases wherein judicial orders have been passed against police officers in contempt cases or otherwise. Suppose a senior judicial officer goes to a particular State where he has given a conviction or passed strictures against a particular police officer in a contempt case proceedings, it is very easy to frame a case against that particular judge, haul him up and he can say that there is a case against the judge. There have been certain norms. I am on a fundamental point and the biggest reason, justifiable Constitutionally-valid reason, for the removal was that she was found to be completely lacking in understanding the very norms which govern the Constitutional scheme and that by itself is a complete justification for the recall of that Governor. Sir, an argument was made about police officers with regard to the statement of the hon. Law Minister. I again raise more fundamental issues. I am not going into the powers of the Central Government. That power certainly is there under the Indian Police Service Cadre Rules. In proviso to Rule 6, it is clearly stated - forget the concurrence part - that in the case of disagreement, the Central Government shall take the decision and the States shall be bound to give effect to that. I am on a larger issue. For 50 years we have worked as a democracy. Politicians will govern through elections political parties, Parliament and Vidhan Sabhas. Politicians will commit mistakes also. They should go to jail also. Firstly, what shall be the manner of treatment? Secondly, would the civil services be used as a tool for wrecking political vendetta? This is a very important issue. I know of cases in my State and other States where politicians have been chargesheeted in big scams of

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thousands of crores of rupees. Their anticipatory bail applications were rejected even by the Supreme Court, chargesheets were filed, cognizance was taken, warrants were issued through the order of the court. Now, here is a case, and, what happened in the evening, I do not want to elaborate. But the larger issue is this. It is time that a message goes to the civil servants that they should not allow themselves to become a tool of vendetta. And, I think, if in the context of Tamil Nadu such a lesson is subserved, it would be a very healthy sign...*(Interruptions)*...

SHRI P.G. NARAYANAN (Tamil Nadu) : Sir, it is entirely different...*(Interruptions)*... It cannot be allowed ...*(Interruptions)*... The facts are totally different...*(Interruptions)*...

SHRI P. N. SIVA (Tamil Nadu): Sir, no one has interrupted ... *(Interruptions)*... They should not interrupt ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please take your seat...*(Interruptions)*... Please take your seats...*(Interruptions)*...

SHRIMATI S. G. INDIRA (Tamil Nadu) : Sir, is he speaking on the Resolution or on Tamil Nadu? ...*(Interruptions)*...

SHRI R. KAMARAJ (Tamil Nadu) : Sir, the point is...*(Interruptions)*...

SHRI P. SOUNDARARAJAN (Tamil Nadu) : Sir, he should not be allowed to...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Please take your seats ...*(Interruptions)*... You are requested to take your seats ...*(Interruptions)*...

SHRIMATI S. G. INDIRA: Sir, he is always talking about Tamil Nadu ...*(Interruptions)*... He is not speaking on the Resolution ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu) : Sir, we allowed him to say whatever he wanted to say...*(Interruptions)*... When Mr. Pillai referred to Tamil Nadu, we did not object...*(Interruptions)*... He said whatever he wanted to say...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Nothing will go on record...*(Interruptions)*... Nothing will go on record...*(Interruptions)*... You please sit down...*(Interruptions)*... Mr. Prasad, you please conclude now...*(Interruptions)*...

SHRI RAVI SHANKAR PRASAD: Sir, I have nothing against the Government of Tamil Nadu. I wish to assure my friends. But the important part is this. The civil servants ought not to become a tool of political vendetta because, if the Civil Services have a tendency that they can manipulate their political masters under the pretext of political vendetta, it will be a sad day for the country because, today, we are in power, and, tomorrow, you may be in power. It may be vice-versa...

SHRI H.K. JAVARE GOWDA (Karnataka) : Sir, I am not going to disturb him ...*(Interruptions)*... Sir, I have a small point to make ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Mr. Gowda, your name is here. You will be given a chance ...*(Interruptions)*... Please be seated...*(Interruptions)*... Nothing will go on record...*(Interruptions)*... No cross-questions ...*(Interruptions)*... Nothing ...*(Interruptions)*... No ...*(Interruptions)*...Mr. Javare Gowda your name is here. You will get your chance. Please conclude now.

SHRI RAVI SHANKAR PRASAD: Sir, there is one more larger issue which Mr. Pillai touched upon, namely, the allocation of Central schemes and the political considerations weighing thereon. I think, if the regional parties represent the aspirations of the State, and if the regional groupings have an understanding with the Central parties to form the Government at the Centre, this I see as a healthy development towards matured Centre-State relations. Let us not talk about only of a situation that only political considerations outweigh. Shri Pranab Mukherjee Sahab has touched upon a very important issue. The country's polity is undergoing a change. You will have to acknowledge it. At least, for the time being, the days of one-party rule is over. Let us wish it comes back soon. But the good reciprocity between the major national political parties and the regional groupings when they coalesce together to ensure a proper Government at the Centre is a unique experiment which ought to be appreciated. It would have its teething problem. But, if there is a spirit of give and take, we can get over these problems. Mr. Mukherjee Sahab has rightly said, when the Planning Commission's allocation problem comes, we discuss it in the NDC. He is very right. Today, no Chairman of the Planning Commission or no political party which is in power at the Centre can completely afford to ignore the wishes of the State Governments, as far as the allocation is concerned. And the diminishing returns of the Central revenue, which he very eloquently quoted, by itself, is evidence of that. Therefore, let us not

quarrel much about that. But the larger issue is this: The first one is, let a situation be not created that the Central Government's power of ensuring the security and integrity of India is diminished. Secondly, let complete autonomy, power and authority be given to the local municipal councils ...*(time-bell)*... Sir, I will just take two minutes to conclude my speech. It is a very important point. Thirdly, economic reforms today have become a very important component of our agenda. A whole lot of economic activity has to be done through the States. The Centre cannot do it by itself. May I ask a question? What is the level of economic activity of the State Governments? Are we not countering a situation of lopsided development? What is the situation of public debt of the States? It runs into thousands and thousands of crores. If the Centre does not come to their rescue, what will happen? Are they willing to change with the changing times? I think, today, is the time for reciprocity. Today is the time for consensus. And if the economic reforms has become an important agenda of governance, which Shri Mukherjee has rightly pointed out, the time has come for a consensus between the Centre and the States. Political differences would be there. Ideological dichotomy would be there. But, on certain key issues of economic development, we will have to have a consensus because, if a consensus does not come about, I am sorry to say, the lopsided development would continue.

Sir, I would only urge Mr. Pillai that though he has moved a very timely Resolution, yet, I regret that some of the contents which accompanied the presentation, are something with which I cannot agree. However, what is of crucial importance is to ensure a cleaner, transparent and effective governance. Unfortunately, the lack of proper governance today is sought to be attributed to the encroachment of powers by the Centre. It is a tendency which is emerging among the States. It is time to completely side-track it and go for effective governance. That is the only answer. Sir, I am truly grateful to you for giving me time.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): This Resolution is very important. Members are requested not to raise controversial issues. At the same time, Members are also requested not to interrupt. Now, Shri C.P. Thirunavukkarasu.

SHRI C.P. THIRUNAVUKKARASU (Pondicherry): Thank you, Mr. Vice-Chairman, Sir. Mr. Pillai, while moving this Resolution on Centre-State relations, has given some illustrations. Our learned friend, Mr. Mukherjee,

spoke about the Constitution and other aspects. I am a student before him. Mr. Ravi Shankar Prasad has supported our policy. I thank him. I beg to draw the attention of my learned friend, Mr. Pillai, to Justice Krishna Iyer's statement. I think, he is your comrade. I think, you still recognise him as a comrade. Under an article 'A crime by a crude khaki crowd' he said, "Were it true, human rights in Gandhi country are on the cross, Constitutional guarantees are but paper tiger and a barbaric blitz has possessed the police and the top echelons with unconscionable ease. Some Central Ministers have been taken into custody, with puerile impunity, paralysing, in part, the Union Government's functionalism. Police raj has over-powered the Constitutional Order and the rule of law has surrendered to a quasi-fascist syndrome. If allowed to run berserk, this authoritarian terrorism will make Bharat a bedlam." Sir, this is an article written by Shri V.R. Krishna Iyer in the Hindu. I would like to say that in order to ascertain this fact whether there is a terrorism raj in Tamil Nadu, three officials have been sent there by the Central Government. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): I have a name from your party also. He will get a chance. ...*(Interruptions)*... He will get a chance. ...*(Interruptions)*... No interruptions. Nothing will go on record. If there is anything which is objectionable, if there is any sentence which is unparliamentary, it will be deleted. But don't interrupt. You will get a chance. ...*(Interruptions)*... I have a name from your party. Please be seated. ...*(Interruptions)*... No. ...*(Interruptions)*... You also sit down. ...*(Interruptions)*... That is why, in the beginning, I had requested not to speak anything which is controversial.

SHRI C.P. THIRUNAVUKKARASU: Mr. Pillai has raised a question why these three officials had been sent to Tamil Nadu. The main reason was that the law and order was not maintained properly in the State. A mini emergency had been imposed in Tamil Nadu. In order to ascertain that particular ...*(Interruptions)*... Let me speak. My learned friend further said that ...*(Interruptions)*... With regard to the role of the Governor ...*(Interruptions)* at the pleasure of the ...*(Interruptions)*...

SHRI P. SOUNDARARAJAN: When we are allowed to speak, you don't interrupt at that time. ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU : Sir, I am saying ...*(Interruptions)*...

SHRI P.G. NARAYANAN: Sir, we are not discussing about the incident...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: We are discussing the facts. We are discussing...*(Interruptions)*...

AN HON. MEMBER: He mentioned the names of different...*(Interruptions)*..., nobody interrupted ...*(Interruptions)*...

SHRI P. SOUNDARARAJAN: It was simply implemented by the NDA ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: Sir, I am on a point of order ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Under which rule! ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: Sir, I have not made accusations against anybody ...*(Interruptions)*...

SHRI R. KAMARAJ: Sir ...*(Interruptions)*...

SHRI P. SOUNDARARAJAN: Sir...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please be seated. You will also get a chance to speak. The name of the speaker from your party is there in the list. You will also get a chance ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: Let me complete. Shri Pillai mentioned about the role of the Governor. Everybody said about it. I will read para 4.317, on page 118 of the report of the Administrative Reforms Commission. In its Report, in 1969, the Administrative Reforms Commission observed that the Governor, as the Head of the State, should, by his impartiality and a sense of fair play, command the respect of all parties in his State." Much has happened since then, nonetheless, this observation remains valid today as ever then. Therefore, my submission before this August House is that the Governor should command the respect of all the parties. He should also have a sense of responsibility. If it is not there, the Central Government is entitled to recall anybody. In this case, the Government felt that, when there is no sense of responsibility and there is no fair play, according to the rule, the Governor should be recalled. This will answer the question raised by Mr. Pillai. But I would like to submit that there is a lot of problem with regard to the transfer of police officers. Transfers are common now a days. The whole Union Government is running by taking officers from the States. Officers who were transferred on deputation basis to other States have been called back and they are now

working with the Government of India, as it is. One or two examples of Tamil Nadu will prove this. One IPS officer, Shri Vijay Kumar, who worked formerly with the AIADMK Government, has been recalled to Tamil Nadu. A request was made and that was accepted by the Central Government and, Shri Vijay Kumar was relieved. A request was made by the Tamil Nadu Government, saying " You are requested to send our officer, Shri Vijay Kumar, back." The requisition was accepted and Shri Vijay Kumar was sent back to the Tamil Nadu Government. Then, Shri Shanker-- everybody knows he is now the Chief Secretary of Tamil Nadu --was earlier working in the Ministry of Petroleum and Natural Gas. He is occupying a big post ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please don't confine yourself only to Tamil Nadu.

SHRI C.P. THIRUNAVUKKARASU: Sir, I am confining myself only to the transfer of police officers. The Tamil Nadu Government made a request to send him, who headed the Ministry of Petroleum and Natural Gas here, so that he can take up the post of Chief Secretary. So, the request was accepted by the Union Government. Now, when the Central Government is making a request, why are they not accepting it? Why are they denying the facts? When they asked for the transfer of Shri Vijay Kumar, it was accepted ...*(Interruptions)*...

SHRIMATI S.G. INDIRA: Sir, is this the issue we are discussing today? ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: I am coming to the issue ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Mr. Thirunavukkarasu, your party has been allotted five minutes. So, please conclude ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: Sir, I will finish within five minutes. There are three police officers who have been transferred. There were requests for their transfer. As far as one police officer is concerned, according to me, he is a good, efficient and capable police officer. He is a

person who can deal with crimes under the Narcotic and Psychotropic Substances Act. ...*(Interruptions)*...

SHRI P.G. NARAYANAN: This is too much, Sir...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Please, don't mention the name of a person who cannot defend himself. ...*(Interruptions)*... This will not go on record.

SHRIMATI S.G. INDIRA: Sir ...*(Interruptions)*...

SHRI R. KAMARAJ: . Sir ...*(Interruptions)*...

SHRI P.G. NARAYANAN: This is too much, Sir ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): This will not go on record ...*(Interruptions)*... Please be seated. I will see the record and take a decision. Now, Please continue, Mr. Thirunavukkarasu.

SHRI C.P. THIRUNAVUKKARASU: So, instead of taking the ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Yes; please complete...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: Sir, I am completing ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : No; no. Nothing will go on record, Mr. Dave. ...*(Interruptions)*... No; no, please. ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: So, Sir, I am supporting good officers, efficient officers. ...*(Interruptions)*...

श्री अनन्तराय देवशंकर दवे (गुजरात) : महोदय इनकी पार्टी के लिए 5 मिनट का समय है ...*(व्यवधान)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : I know what you want to say. ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: ... North-Eastern countries. Then, there is a trafficking of narcotics ...*(Interruptions)*...

* Not recorded.

श्री अनन्तराय देवशंकर दवे : सर, प्राइवेट मैम्बर्स बिल और प्राइवेट रेज्यूलेशन पर इस हाउस में कई सालों से यह प्रैक्टिस रही है कि इनके लिए कोई टाइम लिमिट नहीं है ...*(व्यवधान)*...

उपसभाध्यक्ष (श्री सुरेश पचौरी) : प्रैक्टिस की बात अलग है, आप रूल 161 देख लीजिए। Rule 161 is very clear. Every Member is supposed to finish his or her speech within 15 minutes ...*(Interruptions)*...

श्री अनन्तराय देवशंकर दवे : सर, आपका जो निर्णय होगा, मैं वह सही मानूंगा। लेकिन इस हाउस की परम्परा रही है ...*(व्यवधान)*...

उपसभाध्यक्ष (श्री सुरेश पचौरी) : परम्परा को मैं जानता हूँ। ...*(व्यवधान)*...

श्री अनन्तराय देवशंकर दवे : प्राइवेट मैम्बर बिल और प्राइवेट रेज्यूलेशन पर कोई समय तय नहीं होता है।

उपसभाध्यक्ष (श्री सुरेश पचौरी) : पहले समय में जो बंधन था उसमें थोड़ी रिलेक्सेशन कर दी गई है। ऐसे मुद्दे पर अपना समय खर्च न करें जिससे उस विषय पर न बोल पाएं। आप रूल 161 पढ़ लीजिए, बहुत क्लीयर है।

SHRI C.P. THIRUNAVUKKARASU: So, he has been posted, ...*(Interruptions)*... Sorry, Sir, I will finish. If he is posted and if he has been ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Mr. Sankaralingam, please be seated.

PROF. M. SANKARALINGAM (Tamil Nadu) : Sir, I am on a point of order ...*(Interruptions)*... I have every right to raise a point of order, if the time of ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Under which rule are you raising the point of order? Tell me the rule. Under which rule are you raising the point of order?

PROF. M. SANKARALINGAM: Sir, under Rule 258. It is said that except question hour, ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): What is rule no 258? Let me see the rule book. ...*(Interruptions)*... Under which rule are you raising it?

PROF. M. SANKARALINGAM: Sir, under rule 258. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): There is no such rule. Please be seated. It is only for point of order. Yes; Mr. Thirunavukkarasu.

SHRI C.P. THIRUNAVUKKARASU: So, if a good officer, a powerful officer is posted in the North-Eastern States, ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): You have to conclude.

SHRI C.P. THIRUNAVUKKARASU: On the other hand, he has been posted as a security officer in the Prime Minister's office. The security of the Prime Minister means the security of the country ...*(Interruptions)*... The security of the Prime Minister means the security of India. But if he is posted in a powerful post or in a good post, he says, "I am not willing to go, I am not willing to get relieved." What is the reason? Sir, my other submission is, three other police officers have also been asked to come on deputation from Tamil Nadu Government. For that ...*(Interruptions)*...

SHRIMATI S.G. INDIRA: Sir, is this a discussion on Tamil Nadu? ...*(Interruptions)*....

SHRI C.P. THIRUNAVUKKARASU: These nice officers have not done anything. Sir, these good officers arrested the former Chief Minister of Tamil Nadu, an elderly man. One day they went and dragged him, hauled, pushed and pulled him out of the house. These policemen have been awarded. ...*(Interruptions)*...

AN HON. MEMBER: Mr. Vice-Chairman, please ask him to sit down. He is unnecessarily ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: Sir, I will finish. ...*(Interruptions)*... I will finish. ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): The names of Mr. Karunanidhi and Ms. Jayalalitha will not be referred to.

SHRI C.P. THIRUNAVUKKARASU: I have not said anything on this. ...*(Interruptions)*... I have not said anything on this.

* Expunged as ordered by the Chair

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): The names of Mr. Karunanidhi and Ms. Jayalalitha will not be referred to, because they are not present in the House. ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: It is unfortunate that in Indian history ...*(Interruptions)*...

AN HON. MEMBER: How can they say this thing? ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): If you want to have a discussion on Tamil Nadu, you better give a separate notice for it. ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: Sir, my suggestion is ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please conclude it.

SHRI C.P. THIRUNAVUKKARASU: Sir, I am concluding. My suggestion is ...*(Interruptions)*... They have been posted...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please conclude.

SHRI C.P. THIRUNAVUKKARASU: I am concluding. These police officers ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Both these names will not go on record because both of them are not present in the House.

श्री खान गुफ़रान जाहिदी (उत्तर प्रदेश) : उपसभाध्यक्ष जी, जो इश्यू है सेंट्रल और स्टेट रिलेशन का, इतने अच्छे थीम पर इतने अच्छे मियारी और भाषण हो रहे थे, इससे हमें भी फायदा पहुंचता, बजाय इसके कि वहां के पर्सनल मामलात को न लेकर उस इश्यू पर बोलें, उस थीम पर बोलें तो शायद इससे कुछ फायदा पहुंचेगा वरना तो यह थीम खत्म हो जाएगी ...*(व्यवधान)*...

श्री राजू परमार (गुजरात) : पहले तमिलनाडु था अब यू.पी. हो गया ...*(व्यवधान)*...

SHRI C.P. THIRUNAVUKKARASU: These two police officers have been transferred to Delhi because a lot of ISI and terrorist activities are going on in Northern India. That is why they have been transferred to Delhi by the Central Government. Let them serve here in a peaceful manner. It

* Expunged as ordered by the Chair.

[3 August, 2001]

RAJYA SABHA

has been said by my learned friend that the Central Government has no power to transfer an officer. Rule 6 provides ...*(interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please conclude.

SHRI C.P. THIRUNAVUKKARASU: Sir, I am only stating facts. ...*(interruptions)*...

SHRI P.N. SIVA: Our friend who has moved the Resolution started this issue. But for that, it would not have come up.

SHRI C.P. THIRUNAVUKKARASU: Yesterday, the Supreme Court has pronounced its judgement. It has appeared in all the newspapers. The Supreme Court observed, "A convicted public servant can't hold office." They said, "The appellate or revisional courts should not suspend the conviction of a public servant charged with corruption." ...*(interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: This matter is not *sub-judice*. The judgement of the Supreme Court has appeared in almost all the newspapers. He has quoted only a portion of the judgement.

SHRI C.P. THIRUNAVUKKARASU: I will not read the entire judgement. ...*(interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please allow him.

SHRI P.N. SIVA: It is a judgement delivered by the Supreme Court. ...*(interruptions)*... What is this? They are not allowing him to speak. ...*(interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please conclude.

SHRI C.P. THIRUNAVUKKARASU: I am concluding. ...*(interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: He is actually quoting from a newspaper, "The Hindustan Times".

SHRI C.P. THIRUNAVUKKARASU: I quote, "A Bench comprising Justice K.T. Thomas and Justice S.N. Variava was of the view that corrupt public servants could cripple the social order if they were allowed to manage public institutions." ...*(interruptions)*...

SHRI P.N. SIVA: Sir, I am on a point of order.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Under which rule?

SHRI P.N. SIVA: Under Rule 235. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : I have allowed him.

SHRI P.N. SIVA: Rule 235 (b) says, "Whilst the Council is sitting, a Member shall not interrupt any Member while speaking by disorderly expression or noises or in any other disorderly manner." He is being interrupted continuously. He is not being permitted to quote a portion of the Supreme Court judgement.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): That is why, in the beginning, I have requested all the Members not to interrupt when a Member is speaking.

SHRI P.N. SIVA: It should be applied to the other side also.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : It is applicable to both the sides.

SHRI C.P. THIRUNAVUKKARASU: I may be permitted to quote. "Corruption by public servants has now reached a monstrous dimension in India. Its tentacles have started gripping even the institutions created for the protection of the Republic." This is what the Bench observed. If the institutions take orders from proclaimed corrupt officers...on account of suspension of their conviction, the fallout would be one of shaking the system itself."

My submission before this hon. House is that ...*(Interruptions)*...
(Interruptions). That is why the Government of India is interfering in these matters. ...*(Interruptions)*... Thank you.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Shri P.G. Narayanan. Please listen to him patiently.

SHRI P.G. NARAYANAN : Sir, I rise to support the resolution moved by Mr. Ramachandran Pillai. In a federal set-up, more powers are necessary for States so as to strengthen the unity of our country and also for the overall development of the States. Now, the scenario has

* Expunged as ordered by the Chair

completely changed. I am sorry to state that already the existing powers of the States are being eroded by the acts of omission and commission and by frequent intervention of the Centre. In all possible ways, the Centre attempts to usurp the powers of the States in all the fields. If the Centre continues to weaken the States by usurping the powers of the States, it will definitely pose a threat to the unity and integrity of the country. So, here, there is a need to maintain the balance of power between the Centre and the States in a federal polity.

The Sarkaria Commission, in this regard, gives valuable guidelines as to how to maintain better relationship between the States and the Centre. But, now, the Sarkaria Commission's guidelines are thrown to the winds by the Centre. The Centre seems to have devised a new way of exercising its authority over politically unfriendly State Governments. There are established norms and conventions over the years in the matter of deputation of All-India service officers to the Government of India. These norms and conventions are being violated. The unilateral decision of the Central Government to transfer three IPS officers from Tamil Nadu on specific duty in the Central Government is tainted with malice and is *mala fide*. First of all, it is contrary to the rules of the Indian Police Service Act, 1954. The three police officers are governed by the Indian Police Service Cadre Rules, 1954. According to rule 6 clause 1, three conditions should be satisfied for deputing an IPS officer to the Central Government. First, the concurrence of the State Government; second, the willingness of the Central Government which would be the borrowing department; and third, the consent of the officer concerned. The rule specifically refers to the deputation of cadre officers. In this regard, in 1997, the Supreme Court, in the case of *State of Punjab vs. Inder Singh*, held that there can be no deputation without the consent of the person who is deputed. This is the observation. Again, in *Umapathy Choudhary vs. State of Bihar*, the Court observed, "The necessity for sending on deputation arises in public interest to meet the exigencies of public service..."

"The concept of deputation is consensual and involves a voluntary decision of the employer to lend the services of his employee and a corresponding acceptance of such services by the borrowing employer. It also involves the consent of the employee to go on deputation or not."

In this case, there is no concurrence of the State Government. In fact, there is no proposal at all from the State Government to send these three Officers to the Central Government. In addition, there is no consent

of the three Officers for their being deputed to the Central Government. Rule 6 of the above Rules is not attracted, and the decision of the Central Government is hence not sustainable under the law.

In the case of the Chennai Police Commissioner--he has been debarred. ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: Sir, when I took the name they started shouting. Now he is taking the name. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): You have already got enough chance. Please don't interrupt him. ...*(Interruptions)*... Please be seated. ...*(Interruptions)*... Please be seated.

SHRI P.G. NARAYANAN: Sir, the Chennai Police Commissioner has been debarred for a period of five years from Central deputation. That period of five years expires on 25.9.2002. So, clause 12 of the Office Memorandum is binding on the Central Government. There is no provision in the above Memorandum to relax this clause. So, the Central Government cannot violate their own instructions and appoint the Chennai Commissioner before the expiry of the debarred period. So, this transfer is not sustainable under the law.

In the case of the second Police Officer, a Joint Commissioner, who is on a cooling-off period, his appointment before that date ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : No interruption, please.

SHRI P.G. NARAYANAN: His appointment before that date in the Central Government is violative of the instructions of the Central Government.

In the case of the third Police Officer, i.e. the Deputy Commissioner, the year of allotment is yet to be determined. No seniority has been fixed for him. So, the three Officers cannot be transferred at all, under the law. If the decision of the Central Government is implemented by the State Government, it will demoralise the entire All India Services and, in particular, the Indian Police Service. So, the decision is not in the interest of the Centre-State relationship.

[3 August, 2001]

RAJYA SABHA

Sir, in this regard, Sardar Patel has said, "If the security and independence of the IAS and IPS officers is threatened, it will not be in the interest of the unity of India."

So, the reason for this transfer is that a prominent political party in Tamil Nadu is pressuring the Centre to take action against these three IPS Officers. ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: Sir, I am strongly opposing this.

SHRI P.G. NARAYANAN: No, no; I have not named it. ...*(Interruptions)*... I have not named it. ...*(Interruptions)*... I have not named the party. I only said 'a prominent party in Tamil Nadu. ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: Sir, I am not making a noise. I only want to tell you one thing.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): What is it?

SHRI S. VIDUTHALAI VIRUMBI: It is about the State Government's letter. "The State Government's letter has not alleged that the transfers of the Officers, involved in the arrest operation of the former Chief Minister were politically motivated, under pressure from the opposition DMK." ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Mr. Virumbi, please sit down. ...*(Interruptions)*... Please sit down. ...*(Interruptions)*... Please continue, Mr. Narayanan.

SHRI P.G. NARAYANAN: Sir, I have not named any party. I am speaking in general. ...*(Interruptions)*... I have not named any party. A prominent party in Tamil Nadu is pressuring the Centre to take action against these three Officers. They have already named these three persons. The Centre, to appease that political party, which is a partner in the ruling alliance, attempts to transfer these three officers. ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: Then he must identify the party. ...*(Interruptions)*... When he says a partner in the ruling alliance, he should identify that party. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Why are you interrupting again and again? Please don't interrupt. ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: He is speaking contrary to what his own leader has stated. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Mr. Virumbi, please. ... *(Interruptions)*... This is not fair. ...*(Interruptions)*...

SHRI P.G. NARAYANAN: They want to transfer these officers to give cruel punishment to them. ...*(Interruptions)*... So, the transfer is politically motivated. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Now, you have to conclude, Mr. Narayanan.

SHRI P.G. NARAYANAN: That would erode the powers of the State.

In the case of transfer of Governors, it should be done on merits. It should not be done on political grounds. The Constitution says that the tenure of a Governor is five years. The then Governor of the State was asked to send a report on what happened during the arrest of the former Chief Minister and the two Central Ministers. The Governor gave the factual position as to what happened at the time of their arrest. As the report was not to the liking of the Central Government and the report did not suit the convenience of the Central Government, it decided to recall the Governor. That Governor was a straightforward Governor. She suffered a lot of humiliation at the hands of the Central Government. She resigned from the post on her own. Is this expected from a good Central Government? The Governor was not given an opportunity to explain her stand. This kind of cruel and inhuman treatment of Governors should be avoided, in the interest of good Centre-State relations.

As Mr. Pillai has stated, a code of conduct for Central Ministers is the need of the hour. When Central Ministers visit the States, they should behave in a dignified manner. Nobody is above the law. But certain Central Ministers' behaviour is not befitting their status as Central Ministers. Taking the law into their own hands, abusing the police officers on duty in the filthiest possible terms, assaulting the police officers on duty and preventing the police officers from discharging their duties.... *(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): He has not named anybody. ...*(Interruptions)*...

SHRI P.G. NARAYANAN: are not expected from a responsible Central Minister. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : No, no. He has not named anyone. ...*(Interruptions)*... He has not named any of the Ministers. ...*(Interruptions)*...

SHRI P.G. NARAYANAN: I have not named the Central Ministers. I have not named them. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Mr. Virumbi, you have quoted rule 235. ...*(Interruptions)*... You please read rule 235, clause 10. ...*(Interruptions)*... No, no. ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: Who are the Central Ministers? ...*(Interruptions)*... The police officers assaulted the former Chief Minister. ...*(Interruptions)*...

SHRI P.G. NARAYANAN: Sir, I have not named anybody. ...*(Interruptions)*... I have not named anybody. ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: The police officers assaulted the former Chief Minister and the Cabinet Ministers. ...*(Interruptions)*...

SHRI P.G. NARAYANAN: Sir, I am speaking generally.

SHRI P.N. SIVA: Sir, I have a point of order.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Mr. Virumbi, please. ...*(Interruptions)*... Nothing will go on record except the speech of Mr. Narayanan. ...*(Interruptions)*... Nothing will go on record. ...*(Interruptions)*... Mr. Virumbi, you have mentioned about rule 235. Have you read clause (10) of rule 235? ...*(Interruptions)*...

SHRI P.N. SIVA: Sir, my request was not considered. I have a point of order under rule 240. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : This is wrong. Rule 240 is not applicable here. ...*(Interruptions)*...

SHRI P.G. NARAYANAN: Sir, I have not named anybody. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Nothing will go on record. ...*(Interruptions)*... Nothing will go on record. ...*(Interruptions)*... Mr. Virumbi, please go to your seat. ...*(Interruptions)*... Mr. Virumbi, please go to your seat. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please go to your seat. ...*(Interruptions)*... Please go to your seat. ...*(Interruptions)*... When they were interrupting you, I asked them not to interrupt you. Shri Narayanan, please conclude. ...*(Interruptions)*... We have to finish the discussion today. ...*(Interruptions)*... Shri Virumbi, you should give respect to the Chair. You are a senior Member. ...*(Interruptions)*... Please be seated when I am on my legs. ...*(Interruptions)*... Please read rule 243. I am on my legs. ...*(Interruptions)*... Please sit down. ...*(Interruptions)*... Shri Narayanan, please conclude your speech. Don't make any remarks which are controversial. ...*(Interruptions)*... I will see the record.

SHRI P.G. NARAYANAN : If the Centre is really interested in maintaining the Centre-State relationship, it should stop unnecessary intervention and usurping the powers of the States. Sir, the valuable recommendations of the Sarkaria Commission should be implemented in full in order to maintain better relationship between the State and the Centre. With these words I conclude.

SHRI C.P. THIRUNAVUKKARASU : Sir, rule 238 says, "A Member while speaking shall not make personal charges against the Member..."*(Interruptions)*...

SHRI P.G. NARAYANAN: Sir, I have not made any charges. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): He did not make any charges. ...*(Interruptions)*... I have called another Member. ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: Are the Central Ministers not Members of Parliament? ...*(Interruptions)*...

SHRI C.P. THIRUNAVUKKARASU: He has made an allegation against..."*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : I have called the next speaker. ...*(Interruptions)*... Let us discuss the Resolution.

SHRI S. VIDUTHALAI VIRUMBI: Sir, what is your final decision? Are you going to expunge the remarks which he made against the Central Ministers?

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : I will see the records. If there is anything objectionable, I will expunge it.

SHRI V.V. RAGHAVAN (Kerala): Mr. Vice-Chairman, Sir, I must congratulate my colleague, Shri S. Ramachandran Pillai for bringing the most burning issue before the House today in the form of a Resolution. This great nation is composed of multilingual, multicultural, multi-historical traditions and even multi-economic base. The problem in India now is, some sections of the Treasury Benches out of ideological considerations do not accept this multiplicity of the nation. Pt. Jawaharlal Nehru said, "The national integration of the nation is based on unity in diversity". Our great men who framed the Constitution clearly defined the powers of the States and the powers of the Union Government and the concurrent powers of the Union Government and the States. Any attempt to erode the powers of the States is nothing but an act against the Constitution. There are some steps taken by the Union Government to curtail the well-defined Constitutional powers of the States. Sir, recently, the Cabinet formed a Group of Ministers. What for? It was to curtail the powers of the State Governments. They submitted a report in February, 2001. Sir, we would all like to have a copy of it. In the Report, the Cabinet Committee stated that article 355 should be strengthened, through legislation, to enable the Centre to intervene in the law and order situation of a State. Sir, we know that the Government has appointed a commission for reviewing the Constitution and they are doing their work. Let us wait and see what the outcome is going to be. But, in the meanwhile, for what purpose has the Cabinet appointed a sub-committee to make suggestions for modifying the articles of the Constitution? In the Report of the Sub-Committee of the Cabinet, they have clearly stated, by-passing all the norms of the Constitution, that article 355 needs to be strengthened by a new legislation to enable the Centre to intervene in the law and order situation of the States. It is nothing but an erosion of the powers of the States.

Sir, the Government has signed some of the international agreements. The Union Government has every right to have international agreements. But when they sign a Memorandum of Understanding, they should consider how it would affect the States. They have an Agreement on Agriculture; in addition to that, they have also lifted the Quantitative Restrictions on all items. All these acts of theirs are adversely affecting the States. Recently, our Prime Minister went to Malaysia and he entered into certain agreements with the Malaysian Government. And, one of the agreements is that the import tariff on palmolein should be reduced. Hon. Nitish Kumarji is sitting here; he was handling the Ministry of Agriculture. He may remember that in one of the Consultative Committee meetings, this

issue came up. He told us at that time that if the tariff on palmolein was reduced, it would, adversely, affect the States, especially, those States which are cultivating oilseeds. And, he promised that he would have a word with the Ministry of Commerce and even with the Cabinet and see to it that the duty was enhanced to 100 per cent. But, he could not keep his promise. It was raised only up to 65-75 per cent. Even then, the States are in a very bad shape; the cultivators are in a very bad shape. Now, another Memorandum of Understanding is being signed to bring down the tariff. If you bring down the tariff, you know what the impact will be. These steps of the Central Government, which they take bypassing the rights and powers of the States, are ruining the States' economy. Again, Sir, take the case of the distribution of the Central funds. It is guided by the Gadgil Formula. Recently, without consulting the Chief Ministers, the Government of India went on to bypass the Gadgil Formula. How, and why? Only after the Chief Minister's rose in revolt and objected to it, you said, "Okay, we will take it to the National Development Council." You are going against the very vital interests of the State. Take the example of Tamil Nadu or other States. Sir, I ask you plainly whether any Central Minister has a right to go to a State and hit a police officer. There is the Criminal Procedure Code. Is it applicable to me, to you and not to the Ministers? ...*(Interruptions)*...

SHRI S. VIDUTHALAI VIRUMBI: You are making an incorrect statement.

SHRI V. V. RAGHAVAN: No, I am not ...*(Interruptions)*... It pains me. ...*(Interruptions)*...

उपसभाध्यक्ष (श्री सुरेश पचौरी) : विरुम्बी जी, वह जनरल सेंस में बात कर रहे हैं ...*(व्यवधान)*...

SHRI S. VIDUTHALAI VIRUMBI: They don't know what really happened in Tamil Nadu.

उपसभाध्यक्ष (श्री सुरेश पचौरी) : ठीक है, इस पर आप अलग नोटिस दे दीजिए, अलग चर्चा करा लीजिए। Please conclude, now.

SHRI V.V. RAGHAVAN: As an Indian citizen, it hurts me, it pains me. I say that never in this country, a Central Minister will have the right to go to a State and hit a police officer, whatever be the situation, whatever be the situation.

SHRI S. VIDUTHALAI VIRUMBI: Sir, I am again objecting. These types of incorrect statements should not be made in this House.

SHRI V. V. RAGHAVAN: I am not... ..(Interruptions)... Sir, I am not bothered about ...\\(Interruptions)...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): He did not name anyone. ...\\(Interruptions)... Mr. Virumbi, he did not name anyone. ...\\(Interruptions)...

SHRI S. VIDUTHALAI VIRUMBI: He is unnecessarily importing certain issues which are not at all relevant to the subject.

SHRI V.V. RAGHAVAN: Sir, I am not referring to anybody. ...\\(Interruptions)...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): I have to adjourn the House after some time. ...\\(Interruptions)...

SHRI S. VIDUTHALAI VIRUMBI: The remarks that he has made about the Minister are objectionable and should be expunged. He has not been a witness to what happened there.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : I will see the record. ...\\(Interruptions)... He did not name anyone. ...\\(Interruptions)...

SHRI V.V. RAGHAVAN: Sir, my time is very short. ...\\(Interruptions)...I never interrupt anybody. I never shout at anybody. ...\\(Interruptions)...I never rise from my seat. I am the most obedient Member. I never shout. I never rise. I never do... ..\\(Interruptions)... Please allow me. I am the most disciplined Member here. ...\\(Interruptions)...

SHRI S. VIDUTHALAI VIRUMBI: He is casting aspersions and making remarks of a defamatory nature against a Minister. Those should be expunged. ...\\(Interruptions)...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): He did not mention that incident. How can you reach such a conclusion? He is not mentioning that incident.

SHRI V.V. RAGHAVAN: I said 'any Central Minister'...\\(Interruptions)...I am not mentioning anybody. ...\\(Interruptions)...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please. Please. ...\\(Interruptions)...

SHRI V. V. RAGHAVAN: No, no. ...\\(Interruptions)... I only want... ..\\(Interruptions)...

SHRI JIBON ROY (West Bengal) : You see, such a situation has developed where a party in Opposition in the Central Government maybe a

party in power in a State... ..(Interruptions)...

SHRI V. V. RAGHAVAN: Please. My time is very short. ... (Interruptions)...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Yes, Mr. Raghavan. ... (Interruptions)...

SHRI V. V. RAGHAVAN: Sir, I only wanted to know... (Interruptions)...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) : Mr. Jibon Roy. ... (Interruptions).... Please.

SHRI V. V. RAGHAVAN: I only wanted to know... .. (Interruptions)...

The hon. Minister of State for Home is here. Is Criminal Procedure Code applicable to all? Or, is there any special provision in the Criminal Procedure Code for Central Ministers? That's the only question I am asking. I am not referring to anybody.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Now, please conclude.

SHRI V.V. RAGHAVAN: Yes, Sir, I am concluding. The Government of India, through an officer, signed an agreement with the NSCN. How? It affects the other NE States. You did not have in mind the rights and powers of these States. Had you kept in view the powers and rights of Assam, Manipur and the other NE States, you would not have advised Mr. Padmanabhaiah to sign that agreement. And, after all the bloodshed, you are retracing. That is why I am raising it. The Government of India is eroding and encroaching upon the powers of the States, with so many economic, political and other agreements, bypassing the vital interests of the States. Sir, once again, I say that the situation warrants empowering the States more. Our federal structure must be empowered. Through that only, the integrity of the nation can be achieved. Don't be narrow-minded. Bypassing of States' rights, bypassing of States' powers, is an act against the Constitution. Please do not do that.

श्री मूल चन्द मीणा (राजस्थान) : सभापति महोदय, श्री रामचन्द्र पिल्लै जी ने जो संकल्प उपस्थित किया है वह बहुत ही महत्वपूर्ण है। इस समय इस पर चर्चा करने की आवश्यकता है। मैं सबसे पहले संविधान निर्माताओं को धन्यवाद देना चाहूंगा कि उन्होंने ऐसे समय पर जब आजादी की लड़ाई लड़ने के बाद देश आजाद हुआ था तो कौन-सा संविधान, क्या व्यवस्थायें देश के अंदर लागू की जायें, इस पर विचार करके हमारा संविधान बनाया। संविधान बनाते समय उनके सामने एकात्मक और संघात्मक दो व्यवस्थायें थीं। हिन्दुस्तान की भौगोलिक

परिस्थितियों, हिन्दुस्तान की भाषाओं, संस्कृतियों, यहां की मूलभूत परम्पराओं को देखते हुए संघीय ढांचे को उन्होंने स्वीकार किया। उन्होंने संघीय ढांचे को स्वीकार करने के साथ-साथ एक बहुत अच्छी बात यह भी की कि केन्द्र मजबूत होना चाहिए। अगर केन्द्र मजबूत होगा तो देश की एकता और अखंडता भी मजबूत बनी रह सकेगी। यह व्यवस्था उन्होंने संविधान के अंदर की थी। साथ-साथ उन्होंने राज्यों को भी अपने आप मजबूत करने की बात कही थी। संविधान लागू होने के बाद देश के अंदर शासन व्यवस्था की बागडोर को केन्द्र तथा राज्यों में विधायी और प्रशासनिक दो भागों में बांटा था। विधायी भाग में राज्यों के विधान मंडल अलग-अलग होंगे और वे राज्यों से संबंधित कानून बना सकेंगे। केन्द्र के लिए संसद होगी और वह कानून बना सकेगी। संविधान के अंदर केन्द्र सूची, राज्य सूची और समवर्ती सूची की व्यवस्था की गई है। समवर्ती सूची का अधिकार केन्द्र को दिया था जो कि संविधान की अनुसूची 245 से 255 के बीच में है। इन धाराओं में केन्द्र और राज्यों के विधायी संबंधों की व्याख्या की गई है। पचास साल की आजादी के बाद विधायी संबंधों में केन्द्र और राज्यों के बीच में कोई खटास नहीं आई है, छोटी-मोटी खटास किसी स्टेट के अंदर हो गई हो तो अलग बात है, लेकिन उनके विधायी संबंधों में कोई खटास नहीं आई। परन्तु जो प्रशासनिक अधिकार थे जो कि संविधान के अनुच्छेद 256 से 261 के बीच में हैं, उनमें केन्द्र और राज्यों के बीच में अधिकारों का बंटवारा हुआ था। इनके अंदर खटास आई है और इसी कारण से पिल्लै जी को यह संकल्प लाना पड़ा है। प्रशासनिक अधिकारों की व्याख्या केन्द्र के लोग और राज्यों के लोग अलग-अलग करते हैं, केन्द्र के लोग अपने अनुसार व्याख्या करते हैं और राज्यों के लोग अपने अनुसार व्याख्या करते हैं। कई बार केन्द्र के ऊपर आरोप लगाया जाता है कि उसने उनके अधिकार का हनन किया है, दुरुपयोग किया है, तानाशाही की है। जब केन्द्र पर आरोप लगते रहे तो सरकारिया आयोग का गठन किया गया था और उससे कहा गया था कि वह केन्द्र और राज्यों के अधिकारों के संबंध में विस्तृत रिपोर्ट दे कि किस प्रकार से एक-दूसरे के अधिकारों के हनन को रोका जा सके, तानाशाही को रोका जा सके, केन्द्र अपनी दावागिरी नहीं कर सके। इसके बारे में सरकारिया आयोग ने अपनी रिपोर्ट दी है और उसकी रिपोर्ट 1983 में आयी। उसके बाद सरकारिया आयोग की रिपोर्ट पर काफी सोच-विचार कर निर्णय लिए गये। लेकिन हम बिहार की बात करें, तमिलनाडु की बात करें तो पायेंगे कि वहां के गवर्नरों को हटा दिया गया। गवर्नर को एक कर्मचारी की तरह बना दिया गया जबकि गवर्नर पांच साल के लिए नियुक्त किया जाता है। केन्द्र की ओर से निगरानी रखने के लिए गवर्नर की नियुक्ति की जाती है। लेकिन अब सिस्टम ही बदल गया है। गवर्नर का एक स्टेट से दूसरे स्टेट में ट्रांसफर कर दिया जाता है, उसको दूसरे स्टेट में भेज दिया जाता है। यह क्या सिस्टम है? यह व्यवस्था संविधान में नहीं है कि आप गवर्नर का ट्रांसफर कर दीजिए। अगर गवर्नर आपकी मर्जी के हिसाब से रिपोर्ट नहीं करे तो उसको बुला लीजिए। यह कोई तरीका नहीं है। संविधान के अनुसार केन्द्र और राज्य

उपसभाध्यक्ष (श्री सुरेश पचौरी) : मीणा जी, इस निजी संकल्प पर आगे चर्चा 17 अगस्त 2001 को जारी रहेगी। सदन की कार्यवाही सोमवार, 6 अगस्त, 2001 प्रातः 11 बजे तक के लिए स्थगित की जाती है।

The House then adjourned at five of the clock, till eleven of the clock on Monday, the 6th August, 2001