

[Shri M. S. Gurupadaswamy]

THE DEPUTY CHAIRMAN: Now your time is also over and we have to adjourn for lunch also.

SHRI M. S. GURUPADASWAMY:  
If you would please allow me to continue?

SHRI ALADI ARUNA *alias* V. ARU-  
NACHALAM (Tamil Nadu): Madam, he can  
continue after lunch.

THE DEPUTY CHAIRMAN: No, his time  
of 40 minutes is already over.

SHRI M. S. GURUPADASWAMY:  
Can I take one or two minutes?

THE DEPUTY CHAIRMAN: Yes, sure,  
you can take that.

SHRI M. S. GURUPADASWAMY:  
Madam, regarding the financial powers,  
because they are very impotent; the Sar-  
karia Commission has made a number of  
recommendations and has in a way accepted  
the principle that there has got to be devolution  
of financial power to the States. Today the  
resources of the State Government are so  
much strained that they are not able to take up  
programmes because of the constraints.  
Under the guise of planning the Central  
Government has taken over the territory  
legitimately belonging to the State  
Governments. Under the Centrally sponsored  
schemes, the State Governments have no powers  
at all. The Sarkaria Commission has  
suggested many changes in this regard. I would  
like that the financial powers of the States  
should be safeguarded, should be enlarged and  
the divisible pool should be enlarged. I am glad  
that the Sarkaria Commission has made a  
suggestion that the corporation tax should be  
brought to the divisible pool and the resources to  
be divided between the Central and the States  
should be enlarged and the State  
Governments should get more resources and all  
the Centrally sponsored schemes which give  
control to the Centre to control the activities  
within the States should be minimised. In other  
words, Madam, I would like financial autonomy  
for the States so that their planning, their  
schemes, their development may be taken care  
of more effectively by the States themselves.  
Thank you.

THE DEPUTY VCHAIRMAN The House  
is adjourned for lunch till 2.30 p.m.

The House then adjourned for  
lunch at thirtyfour minutes past one  
of the clock.

The House reassembled after lunch at  
thirtyfour minutes past two of the clock,

The Vice-Chairman (Shri H. Hanuman-  
thappa) in the Chair.

#### **REPORT OF COMMISSION ON CENTRE- ESTATE RELATIONS—OONTp.**

SHRI MURLIDHAR CHANDRAKANT  
BHANDRAE; Mr. Vice-Chairman, Sir, T^~  
today's debate on Justice Sarkaria Commission's  
Report on Centre-State relations is one of the most  
important debates in this House TWO generations  
have gone by and it is a very convenient point, a  
convenient time to pause, to look into the future,  
and discuss this very important, very sensitive  
question of Centre-State relationship. I am quite  
sure that Members will participate in this debate  
with all sobriety with all seriousness, taking into  
account the paramount importance of the subject  
and not getting lost into the present momentary  
passions.

In the first instance, I must say that today we  
can boast of ours being possibly the largest and one  
of the finest democracies in the world. Specially,  
when democracies have perished elsewhere. In this  
connection, it is heartening to note that it is reviving  
after a very very long spell in Pakistan; on the way  
to revival. Let me, on behalf of the House, extend to  
the people of Pakistan our very best wishes for the  
revival and restoration of democracy. As I said,  
whereas democracy has perished in various other  
places, it has not only survived here but it has gone  
from strength to strength. We are proud of  
being a democratic country. We are proud  
that we are a free and open society, I think this was  
possibly only because of a very very fine  
instrument which was given to us by the founding  
fathers of our nation and it is the constitution of  
India.

The Preamble of the Constitution has been described by Prof. Owen, a very reputed Professor in Cambridge University, as the finest aspect of the Constitution. Many parts of our Constitution have been accepted as a model elsewhere. Today, therefore, there is an occasion for us to ponder again and think in depth whether something is wrong and whether something can be done to show we can improve upon what our forefathers had given us. It is in this context I repeat what late Indiraji said when this Commission] was constituted. I quote;

"The Commission will review the exiting arrangements while keeping in view the social and economic develop-ments that have taken place over the ' years. The review will also take into account the importance of the unity and integrity of the country for promoting the welfare of the people and would recommend such changes in the present arrangements as might be appropriate within the present Constitutional framework."

It is therefore, necessary before we go into the larger debate to find out as to what really the forefathers or the founding fathers of our Constitution had in view. Beyond any doubt, everybody felt that a strong Centre with equally strong State should be theme of our federal polity'. Dr. Ambedkar described in the Constituent Assembly our federalism as follows: "The Constitution is a federal Constitution inasmuch as it establishes what may be called a dual polity which -consists of the Union at the Centre and the at the periphery endowed with sovereign power, in the fields assigned to them respectively by the Constitution. He has said further; "Yet, the Constitution avoided—here, I would like to emphasise these words because some Members are taking inspiration from other nations—" ... avoided the tight mould of federalism in which the American Constitution: was caught, both unitary as well as federal as per the requirements of time and cir-V cumstances."

Ours is, therefore, not a classical federal Constitution. It is loosely called quasi-federal. More appropriately it is called cooperative federalism. A. H. Pudge says

that the concept of co-operative federalism has been characterised by the increasing inter-dependence of federal and union Governments but the developments had) not destroyed the federal principle. Whereas a classical federal constitution the two are independent, in a cooperative federal structure the two are inter-dependant and this inter-dependence adds to the federal structure, it does not detract or destroy the federal structure. The concept is clearly different from the one that is prevailing, when the federal system of the United States and Australia were set up. The general and regional governments of a country shall be independent of each other within which sphere cooperative federalism produces a strong centre or general government, yet it does not necessarily result in weak provincial governments which are largely policies for Central Government, the Indian federalism has demonstrated it. Right from the word go, we were determined to have a constitution with a strong Centre. I will go in to the historical causes a minute later but that is why we called ourselves in the very opening part of the Constitution as 'a Sovereign, Democratic Republic'. We did not call ourselves like the United States of America or the United States of Soviet Republic. We were very clear that we were united and, therefore, we just called ourselves "India, that is Bharat" and that is the underlined theme of our Constitution which should not be forgotten. Therefore, strong Centre with cooperative federalism, if I may say so, is the very basic structure of our Constitution and we should not try to alter that basic structure, touch that basic structure in a manner which will be really detrimental to what we have achieved over these long many years.

Now I will tell you the historical background with which you are all familiar. Right from the beginning, in the context of the past, particularly of the Government of India 1935 Act, the partition of the country, all were 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, of coordinating vital matters of common concern and of speaking effectively for the whole country

the inter-

[Shri Murlidhar Chandrakant Bhandare]

national sphere. Look at the leadership we have in the international sphere. The soundest framework of our Constitution, therefore, was a federation with a strong Centre. The main reasons for the strong Centre were: (1) Partition; consequent bloodshed and the problem of resettlement of refugees. (2) Only a strong Central Government could deal with the problem of princely States, the danger of balkanisation, how it was very sagaciously avoided, few of which had any semblance to modern governments or effective administration of Centre, inclined to cooperate with the new Government. There was some danger too that provincial governments may not be able to bear the strains of the new responsibilities, particularly in regard to the public security and the food crisis. Immediate goals of social revolution, improving the standard of living by increasing industrial and agricultural productivity provided yet another reason for a strong Central authority. Although some Assembly Members argued that welfare of the people was the responsibility of the provincial governments, most believed that the burden rested primarily with the Union Government, I am deliberately going into the past because it is only the past which can set the future. It is in this context that I want to quote what was said by Pandit Jawaharlal Nehru on that occasion. This is what he said: "Only with centralised coordination and control could meet the food crisis and save the economy of the country from disaster. We have to deal with a situation in which, if I may say so, if we do not try our utmost the whole of India will be a cauldron within six months. And I do not know whether it will not be a cauldron in the next six months due to economic situation".

I just want to quote a couple of speakers in the Constituent Assembly, ordinary Members, though very distinguished Members, who spoke so much in favour of a strong Centre:

"Only through a Central authority..." as expressed by Shri D. P. Kaithal... "could India build up an edifice of education, health and culture". And in the

words of Shri Balakrishna Sharma, "the attributes of a strong Centre are that it should be in a position to think and plan for the wellbeing of the country as a whole, which means having the authority to coordinate, the power of initiative to provide 'he provinces whatever the need arises, whenever the need arises, the unification of the country, the successful tackling of the food problem, ushering in of the green revolution, the enviable indus. tril growth and the international position and social revolution—all could be undertaken successfully because of a strong Centre".

It is in this background that we have to approach the problem, because from a country of 270 million on the day we became independent, today we are 800 million. At that time the average span of life of an average Indian was 27 years. Today it is 56. Our technological progress, going into the space, our march into the field of engineering and science—are too well known and We are recognised as a power all over the world. And this was possible only because there was a strong Centre to guide, to plan equally for those who were strong like my State, the Maharashtra, to which I will come a little later, it was then the Bombay Presidency, or the weaker States who were not so very financially viable.

Now if We keep this aspect in mind, if we keep what We have achieved, we will be able to deal with the problems which arise out of Sarkaria Commission Report more effectively. Of course, the report is voluminous. It runs into two volumes and covers the whole gamut which had taken the Constituent assembly a couple of years to go into. We cannot do it in a short time, but with your permission, Sir, I will restrict myself to some three or four topics which have given cause for concern a cause for debate and a cause occasionally for some controversy.

Let me first take the role of the Governor. Now the Governor is a very high constitutional position. There is a memorandum which also says that we should abolish the office of the Governor. I am happy that Justice Sarkaria has not accepted that suggestion made by one of the States. on the contrary, he has gone

further to say that if any action has to be taken under Art. 356 it should only be on the report of the Governor and not otherwise. The Governor constitutes a vital and important link between the Centre and the State.

The Office of the Governor is not meant an ornamental office at all. He is holder of an office and as such he cannot be an inert spectator, in his position as Governor, his character ...

AN HON. MEMBER. In his or her position.

SHRI MURLIDHAR CHANDRAKANT BHANDARE; Masculine includes the feminine under the English grammar, I think we should change it to feminine includes the masculine.

SHRIMATI RENUKA CHOWDHURY (Andhra Pradesh); Masculine or feminine is all right. |

SHRI MURLIDHAR CHANDRAKANT BHANDARE; If I say "she" often, there will be some objection from the other side. "His" character, calibre and experience must be of an order that enable him to discharge, with skill and detachment, his responsibility towards the Centre and the State Executive of which he or she is the Constitutional Head. "And if I may reproduce the words of one of the greatest lawyers that this country has produced— Shri Motilal Setalved, the first Attorney-General—who was the Chairman of the Study Team on Centre-State Relations, he says;

"In order that his task should be performed effectively, the Governor must be a person who is, by his ability, character and behaviour, able to inspire respect. He must be able to understand all political and social forces and have insight into human motives. He must have knowledge and, preferably, also experience of Government administration. Above all, he must be impartial."

Now with all these qualities, there are occasions when there are deviations from these high standards which are expected of

the Governor \_\_\_\_ (*Interruptions*)... Well, I have been very lucky. In my State one after the other the Governors distinguished themselves so well, whether they were politicians or otherwise. Our present Chairman was our immediately previous Governor. And a very leading politician from your State, Madam, is now the Governor of my State. But we had no problems (*Interruptions*). . . Because you have to understand. After all, the Governor has also to act. He is not a rubber stamp ... (*Interruptions*) ...

SHRIMATI RENUKA CHOWDHURY;  
Yes, as per the recommendations...

SHRI MURLIDHAR CHANDRAKANT BHANDARE; He or she has to act under the rules.

SHRIMATI RENUKA CHOWDHURY;  
Under whose rules? That is the point.

SHRI MURLIDHAR CHANDRAKANT BHANDARE; Wait till tomorrow. If today's news is correct, wait till tomorrow.

SHRIMATI RENUKA CHOWDHURY;  
That is exactly what we are hearing:  
"Wait till tomorrow."

SHRI MURLIDHAR CHANDRAKANT BHANDARE; If today's news is correct, wait till tomorrow. It may be too premature for you to say anything now. That is why I said, let not this debate be lost in the heat of passing passions.

SHRIMATI RENUKA CHOWDHURY; If you would be so kind as to be yield to me, in Andhra we are not having passing passions. We have been annihilated. There has been a Hiroshima in the Constitution as far as Andhra Pradesh is concerned, thanks to the Governors—past, present and future—and hence it is not a transient emotion at all. Mr. Bhandare, it is a very, very sensitive issue to us as a people considering that our State is the second largest State in the country. Hence it is not a transient emotion. So, do not think, even for a moment even for a joke, that we are viewing it in a lighter vein, considering particularly what is at present happening in my State, under whose

[Shrimati Renuka Chowdhury]

rule and with what high standards and who is occupying which office and how as stamps they are stamping on our emotions and feelings as a people. That the people will prove because we are in a democracy. Thank you.

SHRI MURUDHAR CHANDRAKANT BHANDARE: Now, having heard all that the honourable Member—for whom I have a great degree of admiration—has—said, I must confess that I am left utterly unconvinced of her arguments. I don't think she should be so emotional, I don't want to go into it; I am not responding to her because both the Constitution and the Rules of Procedure do not permit us to go into the conduct of a Governor. I have myself been responsible for raising this point and getting it upheld, writing an article on this, and I do not want to deviate myself from 'be standards which I myself have, sort of, expressed if not preached, in this very House. And, what is most important now is, once you understand that, in order to have a proper link between the State and the Centre, you have to have a Governor there. Then, any argument against the institution of Governor must be rejected out of hand. I am sure that my friends from West Bengal are going to raise that objection. It shows total paucity of the knowledge of our federal structure. We are not America. We have no dual citizenship at all. We have a single citizenship. Everyone in our country is an Indian. It is unlike in America. There one is a New Yorker or a Californian and then an American. We have a single citizenship. That was deliberately done. There are certain features by which we were kept as one single unit. Those features are;

- (1) Single citizenship.
- (2) We have a common judiciary.
- (3) We have several laws which are common.
- (4) We have all-India services. We have the defence services.

Look at article 355 which is always for gotten. Let me read article 355. It is

a good time to have a look at this magnificent document in its various manifestations which I propose to do today:

*"Duty of the Union to protect States against external aggression and internal disturbance—It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution."*

SHRI PUTTAPAGA RADHAKRISHNA (Andhra Pradesh); A point of order.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA) Where is a point of order in it?

SHRI PUTTAPAGA RADHAKRISHNA; Why not, Sir?

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA); There is no point of order.

SHRI PUTTAPAGA RADHAKRISHNA: The very first article of the Constitution says "India, that is Bharat shall be a Union of States."

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA); There is no point. This is no point of order.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB); This is from the Constitution that he quoted.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Yes, it is our responsibility. If an enemy comes to Bombay which is my home town and birth place, it is only the Centre which can protect it. The Maharashtra Government cannot send the country-craft of the fishermen to protect me. Therefore, let us understand. This is important. Today in order to pre-serve unity if there is this institution, as I have said it when we had an occasion to discuss about the emoluments of the Governor ... {Interruptions}

Please. You may not like one Governor. That is not the point. I am talking about the institution of the Governor. I am talking about the provisions of article 200 and other articles. Here the Governor is appointed and he exercises his discretionary functions. I am very clear on this point that there can be no compromise.

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh); Discretionary powers in favour of the Centre at the cost of the States.

SHRI MURLIDHAR CHANDRAKANT BHANDARE; Ultimately, it must be remembered that when the Constitution was enacted, we gave the power to the people. It is wrong to say that we gave power to the Centre or the State. It is people's power, and that power is being used, that power is being harnessed, that power is being exercised for protection of the people of this country. There is no mistake about it, I must say.

SHRI B. SATYANARAYAN REDDY: The Governor should not act an agent of the centre.

SHRI MURLIDHAR CHANDRAKANT BHANDARE; There, please don't involve that issue at all. I am saying that the institution of the Governor is a must and this it should always be occupied by a high dignitary with the qualities which I have just mentioned.

Now, what is most important is that Justice Sarkaria...

SHRI B. SATYANARAYAN REDDY; What has Governor Ramlal done? Do you know what the present Governor is doing?

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA); Mr. Bhandare, please ignore the interruptions. I am not allowing these interruptions.

SHRI MURLIDHAR CHANDRAKANT BHANDARE; All that I would say is that *one* swallow does not make a summer. Anyway, I do not take names. But the name that has been mentioned is a bosom fan of the Chief Minister. He has become

a paragon of virtue. (*Interruptions*) Do not say anything further. Again I do not mention names, and I do not like you to mention names.

SHRIMATI RENUKA CHOWDHURY; I agree. (*Interruptions*)

SHRI MURLIDHAR CHANDRAKANT BHANDARE; Please keep his company for the rest of your life. That is all I say. (*Interruptions*)

Sir, the House will find that at page 134 in the chapter on Governors exhaustive guidelines have been given by the Sarkaria Commission.

SHRI B. SATYANARAYAN REDDY: Everything is good on paper, but the actions are wrong.

SHRI MURLIDHAR CHANDRAKANT BHANDARE; I disagree with one of its suggestions. I don't think that the way he has put it that you should not appoint a politician belonging to a ruling party in an Opposition States is correct.

SHRI B. SATYANARAYAN REDDY: Do you disagree with that?

SHRI MURLIDHAR CHANDRAKANT BHANDARE; I disagree with it as a general rule.

SHRI B. SATYANARAYAN REDDY: Why?

SHRI MURLIDHAR CHANDRAKANT BHANDARE; I will tell you why. I think what is of necessity is a man of that calibre, a man of that competence, a man of that character, a man of that administrative ability, who can perform it, wherever from he may be, he may be appointed. There is no reason why he should not be appointed. He may be in the Army, he may be in any of the armed forces, he may be a retired ambassador, he may be a retired bureaucrat like the present Governor of Tamil Nadu or as we had a very distinguished Governor who was head of the Air Force. (*Interruptions*)

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA); Mr. Satyanarayan

[Shri H. Hanumanthappa"] Reddy, will you please stop interrupting? Your party is speaking. You cannot go on commenting in every sentence.

SHRI B. SATYANARAYAN REDDY;  
But he is giving sermons. I am asking...  
{Interruptions}

SHRI MURLEDHAR CHANDRAKANT  
BHANDARE: You don't have to talk like that.  
I am not yielding, I am sorry.

THE VICE-CHAIRMAN (SHRI H.  
HANUMANTHAPPA); You cannot go on like  
this Mr. Reddy. Your party is speaking and  
you can give points then. Every member is  
entitled to give sermons. You should have  
patience to listen (Zn\_ *temptations*)

SHRI MURLIDHAR CHANDRAKANT  
BHANDARE; I am not prepared to condemn  
myself or my colleague,, here, that some of us  
at least cannot be objective and cannot live up  
to the highest reputation that is expected of a  
Governor. I am quite sure that some of the  
members of the Opposition will also live up to  
that reputation. Therefore, what is important is  
selection of the person whom you appoint as a  
Governor. Let there be no relaxation on the  
very rigid standards which the Sarkaria  
Commission has made. It has given very very  
elaborate guidelines. Time does not permit me  
to go into these guidelines as to how the  
Governor should exercise those discretionary  
functions. It is not a matter of Constitutional  
enactment at all. This is a matter of  
conventions and traditions and we must build  
healthy traditions. By and large whatever you  
may feel today, if one is to objectively write  
the Constitutional history of our country, one  
must say that the institution of Governor has  
served very well the Constitution and the  
people.

Then the second one is the question of  
reservation of State Bills for consideration of  
the President. Now, by the very Constitution,  
the power is conferred on the Governor or  
even on the President for that matter. One of  
our Bills is also pending for assent for a very  
long time. Article 200 deals with the various  
points as to when a Bill can be reserved for the  
assent, as to when the Governor feels that

it is contrary to any of the Fundamental Rights or  
it has no legislative competence or it is  
conflicting with the Central Law in the field and  
all that. All that I am \_ saying is that a study  
made by the Indian Law Institute also shows that  
this power has not been abused or has not  
resulted in any one of those acts. It is a very valid  
power. It is that very power which gives room for  
second thought. Second thoughts are necessary,  
when sometimes people act rashly. Even we, as  
legislators, also act very rashly. Therefore, these  
are powers which are to endure for generations. If  
you look at that from that angle, I think; these  
powers of reservation of State Bills for  
consideration of the President are absolutely  
necessary. And whatever the safeguards which  
are provided against as healthy norms, guidelines,  
traditions, they should be really observed in all  
these matters. Then I go to the other more  
substantial point-administrative relations. I am  
glad that Justice Sarkaria has accepted all these  
articles of the Constitution, particularly, articles  
256, 257 and 365. I read from paragraph 3.9.01  
on page 110.

"Articles 256, 257 and 365 are wholesome  
provisions designed to secure coordination  
between the Union and the States for effective  
implementation of Union laws and the national  
policies indicated therein. Nonetheless, a  
direction under Articles 256 and 257 and the  
application of the sanction under Article 356 in  
the event of its noncompliance, is a measure of  
last resort. Before issue of directions to a State  
of application of sanction under Article 365,  
utmost caution should, be exercised and all  
possibilities explored for setting points of  
conflict by all other available means."

I am glad that he upheld this power which is  
really the power to see that the Governments are  
run according to the Constitution of our country. I  
also endorse what he says about article 258 which  
talks of close cooperation and, in fact, it is a mat-  
ter of regret that that article has not been  
brought into operation, has not been acted upon as  
often as it should have been and this is his  
recommendation, I quote:

"Federalism is more a functional arrangement for cooperative action, than a static institutional concept. Article 258 provides a tool, by the liberal use of which, cooperative federalism can be substantially realised in the working of the system. A more extensive and generous use of this tool should be made, than has hitherto been done, for progressive decentralisation of powers to the Government of the States and/or their officers and authorities."

When we talk, of decentralisation and that is going to be the core of my speech today. I think, one must keep in mind the very important provision of article 258. Now, that brings me to the question of legislative relations. I do not think that the balance which was created, very intricate very sensitive balance in the three lists can be upset at this late stage. But Justice Sarkaria has made a very important suggestion and, I think, this House should give a very, very careful consideration to it. What he says is that today the residuary powers in America vest in States in Australia they vest in States. They don't vest in the Federal Government. But in India because we have a strong Centre, the vest in the Centre and not in the State. Justice Sarkaria has made a point that barring the power of taxation, the residuary powers should now be put in the Concurrent List because according to him whenever there is a Central legislation it is that which prevails and whether after 40 years of independence right time to devolve more powers on the States is a matter which has to be considered. I want to invite the attention of the House to this very important suggestion in the matter of legislative relations.

Then about the emergency provisions, I need not say much because what I have said in the administrative relations also applies here. But there is one thing which he has suggested which I would like to commend to this House. He has said two things. Whenever you impose President's rule, it is done on the basis of the Gov-

ernor's report which should be the case and according to him the Governor's report—note, the whole of it, the basic facts! and the reasons on the basis of which the Central Government makes up its mind to impose President's rule—the report should be contained in the notification itself. I think that is a very very valid point that we should look into very carefully. Then, he has also suggested what is called the National Economic and Development Council which I welcome because he has avoided article 263A which relates to disputes, *inter se*, the States because it is this National Economic and Development Council which will really bring a greater coordination, a greater cooperation between the States and the Centre.

I now come to the two basic points. I come to the financial relations and it must not be forgotten that here I represent the State of Maharashtra. I do not know how we got the name Maharashtra but very rarely, a name is so aptly justified.

SHRI BAHARUL ISLAM: Maharashtra means big Rashtra.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: No, we are 'Maha' in the Rashtra. Therefore we are really 'Maha' in this nation. That is why, Maharashtra.

SHRI DHARANIDHAR BASUMATA-RI (Assam): Why Maha?

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: Because of our achievements, because of our administration, because of our progress, because of what we contribute to the progress and growth of the nation and I think if we have really to go ahead, the whole attitude must change. Unless we change that attitude, I do not think that there is really scope for the rapid development of our country. For example, I am not against larger assistance. In fact, I am in favour of larger assistance to the relatively weak, or States. But such an assistance should not be at the cost of the so-called well-off State and through what I may say, a persistent, continuous and gradual diminution of!



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that State. For instance, Bombay is the premier agglomeration of the country and attracts people all over the country in search of employment. Today, it is called mini-India. It has a population of 11 million people and yet the poor sanitary conditions, the civic amenities, the cost of that for supporting mini-India is so much that it is unimaginable and yet every time, when it comes to the State, we are denied because we are a well-off State because Bombay is the commercial capital of India. Now, according to me, even a modicum of investment will generate substantially larger resources for the State which would enlarge the sphere of the weaker States. You give us a little more, we will produce much more and it will be available for the benefit of the weaker States. I think great accent should be there on greater financial discipline. Those who show discipline, and Maharashtra has shown the best of the discipline, should get more and more. You cannot have a spending which is unmatched with your resources as you find in many States. You cannot go on having populist measures in a manner that your whole State is rendered bankrupt. It is a matter of record. Now, therefore, according to me, the reduction of disparities should not be by levelling down. We must level up. We must avoid distributing poverty. We must now act to the process of sharing prosperity. (*Interruption*). Now, come to the point where I feel that the States and I speak for all the States are systematically deprived of their legitimate dues. One is the corporation tax. Originally, we get a portion of the income-tax. Now we introduce the corporation tax and we are kept out of it. Now I feel that the corporation tax should be brought into the divisible pool. Bombay gets so much of customs duty. There is no sharing there. I think that customs duty also should be in the divisible pool. Therefore, the Union excise corporation tax, customs duty...

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): Customs duty is already there, but not corporation tax.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: No. Corporation tax

is not there. Customs duty is also not divisible.

SHRI M. M. JACOB: Corporation tax is not there.

SHRI GHULAM RASOOL MATTO: Customs duty is already divisible, but corporation tax is not.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: I do not know, I mean, I stand corrected if that is so. If customs duty is already there, I am glad about it. But I will check on it and I will come back to you. Now, I want to make this point. Even population control should be one of the tests for giving your grant-in-aid. There should be more and more financial discipline progressive measures which bring in more revenue and avoid expenditure unmatched by revenue and avoid populist schemes. If all these happen, I do not see why really even the State should not improve.

Then, there should also be an incentive for better management. Those who manage better should get more and maximum possible transfer of resources should be through tax-sharing thereby minimising even a supplementary room for grant-in-aid. Therefore, more of tax-sharing and less of grant-in-aid should be there. I will take only one or two minutes more. Now we see administrative price fixation. For example, we used to get something out of kerosene and petrol. In the last ten years that has gone out because it is done by administration. Same is the case of tax from fares. I can go into all these things like the railway freight tax, the terminal tax from air passenger, periodic rises in the tax on the railway passenger tax on advertisement, etc. The rate of Central Sales-tax should be raised from four to five per cent. These are very very essential measures so that States become more self-reliant, more disciplined. And it is only a strong Centre with strong States that will build up the nation into a strong India.

The next and the last point which I want to make is this. Let there not be any misunderstanding that this resilient,

highly exhaustive and magnificent document of Constitution has withstood the test of time. In fact, at a seminar on the bi-centennial of the United States of American Constitution, I was asked whether India would become Europe. My answer was, "Well\_ India will remain India. Europe will become India." That is happening today. Europe is trying to unite. It must be realised that the dark clouds of separatism and all those forces which try to weaken our nation are still raising their ugly heads and at no time ever before it was like this. I am pained to find, when I go to Bombay, the wall-writings saying "You should be proud of belonging to one religion." I hang my head in shame because I am proud to be aq Indian, I am proud to be a secular Indian, I am proud to be a nationalist Indian. How can I bear these writings before my very eyes? All those fraces are still there. And, therefore, the need for a strong Centre is all the more in the years to come if we have to march on to the path of progress and continue to be the envy of the entire world. I have no doubt that the Government will take into account all the 200 odd suggestions which have been made and come effectively to see that more and more power is given to the people of this country which means that there is decentralisation of process. It must not only go merely to the districts but it must also go to the very village panchayats, gram panchayats, because it is only from the bottom that you must bring it. Today we are bringing it from the top. And it is here what the Prime Minister said the day before yesterday is heartening, that they will come to Yojana Bhavan in that fashion, and not that Yojana Bhavan will send them down in that fashion...

डा० बापू कलुदाते (महाराष्ट्रा) :  
अप की सरकार से यह कभी नहीं होगा ।

SHRI MTRLIDHAR CHANDRA-KANT BHANDARE: When the power is decentralised there will be the people's participation and when the people's parti-' cipation is there there will be development and progress. I end my speech by recalling what Dr. Ambedkar had said, that ours is a house which we are giving to ourselves to share and not to divide.

SHRI P. K. KUNIACHEN (Kerala): Sir, when I take part in the discussion first of all I wish to point out that the Sarkaria Commission was not given a free nana to examine the developments which had taken place in the last 40 years in India. The main important point is the terms of reference. By the terms of reference certain parameters had been fixed. Within those parameters the Sarkaria Commission has submitted its report. There are more than 200 recommendations. Due to lack of time it is not possibly to deal largely with) all those recommendations. But at the same time the Commission has tried to find out the back history of India, The Commission has said too much centralisation was objected to from the Mauryan period to the Mugha! period. The Commission has stated the fact. Similarly under the British rule also centralisation was actually objected to by the people, by the States. But they found so many ways to overcome it. The Commission has said;

"To© centralise^ an administration was found to be incompatible with the size and diversity of the country, it bred administrative inefficiency and local discontent."

The Commission has, therefore, said:

The primary lesson of India's history is that, in this vast country, only that polity or system can endure and protect its unity, integrity and sovereignty against external aggression and internal disruption which ensures a strong Czn-tre with paramount powers, accommodating, at the same time, its traditional diversities.'

This is what the Commission has said. The founding fathers of our Constitution were painfully conscious that the feeling of Indian nationhood was still in the making and required to be carefully nurtured. They, therefore, built a constitutional structure with a powerful Central Government envisaging the emergence of an indivisible and integrated India. The concept of a strong Centre which is necessary to meet India's immediate needs was virtually in the later period, converted into the ' concept of a unitary State with priority

[Shri P. K. Kunjachan]

for the Centre in all cases. This was the basis of the process of excessive Centralism, with all power in the hands of the Centre. This is what has happened since then. You see, India is developing on the path of capitalism, especially monopoly capitalism. When monopoly capitalism develops in a country, it is then natural that the general argument will be for centralisation of the powers in the hands of the Central Government because they want to protect the interests of the monopoly capitalists and also help the capitalist. So, that is the natural argument. This argument has been there for the last so many years. But overcentralisation has taken place and we know that it has taken place. What is the result now? Many are talking about the unity of the country, about the integrity of the country. They should be there. But what has happened in the States? Communal forces have grown; divisive forces have grown; and the integrity of the country has been jeopardised. This is what has happened. When the powers were vested in the hands of the Centre why has the Centre failed? The Khalistan movement is there and there are other movements also, secessionist movements. Now, some people are demanding a Jharkhand State, and then there is a demand for a Uttarakhand State. These are all developing. There was a similar demand in Darjeeling. But, fortunately, that has been solved now. But other flssiparous tendencies are growing and the Centre has not been able to control them. The Centre has not been able to prevent them. But they think that only for the Centre and not for the States that the unity of the people has to be maintained. The question of Centre-State relations in India is not a question concerned only with the implementation of federal principles or with preventing the violation of those principles or suggesting a few Constitutional amendment, to business the observance of these principles. But it is concerned with the question of maintenance of Indian unity, maintaining and consolidating the sense of Indianness or Indian oneness, among all the constituents of the Indian Union with the Centre

as the expression of that unity. But for maintaining that unity, which has enabled us to compel the British to quit, the constituent units have not received any reward in the integration of the units because the constituents units consisted of big territories each with its own language and heritage, and in these huge linguistic national units, embracing Indannes, their linguistic identity and sense of unity grew side by side with the identity of the Union. So, a deep thought has to be bestowed on how to maintain the unity with the support of the people, with the support of the States. But that is not the concern of the Central Government. The Sarkaria Commission has been able to make certain recommendations within certain parameters. Even within those parameters two recommendations are there. One is that it is neither advisable nor necessary to make any drastic change in the basic character of the Constitution. They have not gone beyond it. Further, the electoral system can be continued like this. So, there are various aspects. I am not gone into all the aspects. 'He has said "within the Constitution". In the second recommendation, he says that it certainly calls for improvement and reform in a number of aspects. The actual working of the Constitution leaves much to be desired. The second thing is very important. He has said about the changes proposed in the financial aspects of the Indian Union and the State's. The arrangements are far from being satisfactory. He has said about the role of the Governors reservation of Stat; Bills for consideration of the President, use of extra-ordinary powers under Articles 256, 257 and 356 of the Constitution, etc. etc.. He has said about the Inter-Governmental Council with a comprehensive size and character. He has said about a National Economic Development Council having a nexus with the Planning Commission to be formulated under Article 263, limitation of the centrally-sponsored schemes regarding the snbiect? in the exclusive State list State finance and planning, role of Zila Pari- shads, etc. etc. In this aspect, he has made certain recommendations. I doubt whether these recommendations will be implemented by this Government. What has happened after submission of this report

The Central Government has imposed President's rule 13 times when there was a majority in the Assembly. Altogether, President's rule was imposed 75 times. The Sarkaria Commission has stated that it was inevitable only on 26 occasions. It was imposed 13 times when there was a majority in the Assemblies. No Consideration for parliamentary democracy. All norms have been thrown to the wind and the President's rule was imposed in order to help the Centre and the Congress Party. During the period of the report, President's rule was imposed 75 times and it has been found reasonable by the Sarkaria Commission only 26 times. It has not been found reasonable the rest of the times. That is the Government here. This Commission has suggested certain norms for the appointment of Governors. What happened after that? After the submission of the report Shrimati Ram Dulari Sinha has been appointed as the Governor of Kerala. I have no personal quarrel with her. Shrimati Kumudben Joshi was appointed as the Governor of Andhra Pradesh.

THE VICE-CHAIRMAN (SHRI H. HANTJMANTHAPPA): Please don't mention the names.

SHRI P. K. KUNJACHEN: I am mentioning the names because they are the Governors. I am mentioning the names in their capacity as Governors and not in their personal capacity. They are acting politically for the Congress Party. That is my charge.

SHRI A. K. ANTONY (Kerala): Do you remember the names of Governors who were appointed during the Janata regime?

SHRI P. K. KUNJACHEN: Don't quote wrong practices of the Janata Government. If they do something wrong, 'why should you go by that? Janata Government was only for 28 months at the Centre. All the other time, for 40 years, the Congress has been in power at the Centre. And you are allergic

to the name of Janata. I have quoted here that for 75 times, the Governor's Rule was imposed. Out of that, according to the Sarkaria Commission, 26 have been reasonable. Then you are asking about the Janata Government. Why? (Interruptions) He is a friend of mine and a Congress (I) President in Kerala. When he asked a question, I had to yield.

SHRI M. A. BABY (Kerala): He is one of the rare principled Congress (I) leaders but he is in bad company.

SHRI P. K. KUNJACHEN: So, Sir, what I want to say is that an Inter-State Council has been suggested under article 263. And the Sarkaria Commission has said that it should have already been appointed at least from 1967 onwards. Now what is the Government going to do? Now the suggestion has come. Earlier also, the suggestion came. At those times also, the suggestion was completely rejected. I want to ask whether the Government is prepared at least now to accept the suggestion for setting up the Inter-State Council under article 263 of the Constitution. I also want to ask whether you are prepared to accept the norms suggested by the Sarkaria Commission for the appointment of Governors. That is what we have to state here. During all this period, centralisation has taken place, one after the other, including the planning also.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Please conclude now.

SHRI P. K. KUNJACHEN: By executive orders and by other methods, centralisation in planning has also been extended to the lower levels. Minor irrigation, construction of houses and so many other things have to be dealt with by the Planning Commission. At the same time you are talking of transferring power to the panchayats, municipalities and zilla parishads. On the one side, there is centralisation of power and on the other you talk of giving powers at the lower levels. This is your double-standards. What else can I say? After Rajiv Gandhi's Govern-

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ment came to power what has happened? What was done in Tripura? Just on the eve of elections, military has been marched to Tripura, just three days earlier to the elections. Rigging has taken place. And Military is used for political purposes. (*Interruptions*) Not only Military, even the CBI is also being used for political purposes. That is what is happening in India. So, faith in the Central Government, belief in the Central Government has disappeared. People very much doubt about their honesty. What has been done in Meghalaya? What was done in Andhra Pradesh when there was a clear majority for N. T. Ramarao? People know it. So, this is what is happening. That is why I doubt very much whether whatever reasonable recommendations that have been (suggested by the Sarkaria Commission) will be implemented by this Government. This Government will not do that. So, the only alternative is to see that the Government at the Centre is changed if the Report has to be followed. There is no other go for the country. Otherwise, discussions will take place and nothing is going to happen.

With these words, Sir, I conclude.

SHRI BAHARUL ISLAM: Mr. Vice-Chairman, Sir, I want to be brief because most of the points arising out of the Sarkaria Commission Report have been dealt with successfully by Mr. Murlidhar Bhandare.

Sir, may I come nearer to the mike?

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Yes, certainly

SHRI BAHARUL ISLAM: Sir, before I go to my own points, I want to deal with a few controversial points raised by the two hon. Members from the Opposition. Firstly, regarding the office of the Governor. Mr. Gurupadaswamy did not seriously suggest that the office of the Governor should be abolished. Even my friend, the fast speaker did not suggest that the office of the Governor should be

abolished. Their objection is and they say that when a party man is appointed as a Governor he works as an agent on behalf of the party concerned. But it is not true. It is the human nature that when a certain order is passed by the Governor, and it is not to the liking of the opposition parties, they do criticise it. For example, in the case of Nagaland, the dissolution of the Nagaland Government etc. was there, but the Governor is not a party man. He is an independent person. A Governor has to discharge his or her duties in two ways. Some orders are in the individual judgment of the Governor concerned which means that his discretionary power is there. In some cases he is the constitutional head and is to work on the aid and advice of the Council of Ministers. Therefore there may be some cases in which the Governor does act in his individual judgment. For example, some of the Members were mentioning the name of the Governor of Andhra Pradesh. I have no idea about the facts of the controversy. Newspaper reports to me are hearsay. According to any lawyer, they are hearsay and cannot be acted upon. Anyway, the thing is that if the institution of the Governor is to stay what is necessary is that you are to select a person of character, of ability, of good behaviour. Then certainly you will get good results. As I have also just now mentioned.

SHRI B. SATYANARAYAN REDDY:

In the case of the appointment of the Governor of Andhra Pradesh that was not taken into consideration...

SHRI BAHARUL ISLAM: Anyway, I am not going to pass any judgment on that. That is an individual case. Sometimes something is said which may be an exception. Because, as I have already said, I cannot pass any judgment, because I do not know the facts, the facts are not before me. My friend the last speaker was mentioning about the Governor of Meghalaya. Assam and Meghalaya have one common Governor. Assam is being ruled now by an opposition party, the AGP. The AGP party is very happy with the present Governor who is a Congress

man, Similarly, I cannot say that Meghalaya people are dissatisfied with the Governor of Meghalaya, who was the same man. But in the case of Governor of Nagaland and Tripura, which is one common man, who is not a party man, was not subject to any criticism before or even after. Only during the last time when the Assembly of Nagaland was dissolved, he was criticised, that is his report was criticised. I spoke on that subject. I said that the Governor passed the order after going through the information he received from different sources. Then he passed the order. He was not the final authority. He passed on his order to the President. The President means the Central Government. The Central Government after consideration, might accept, might reject. In that particular case the Central Government accented. Because a certain order is not palatable to you, you cannot say that he is a bad man. I can give a few examples. You say of a partyman. In America most of the judges are appointed by the President of America from political parties. But it is on record that after they occupy the Chair as a judge, nobody has accused them that they are partial. There he has a different capacity, like we had on the throne Chandra Gupta Vikramaditya. For example, here, we have had so many distinguished Chairmen unlike Dr. Radhakrishnan and Shri Hidayatullah. Others were party men but they were certainly functioning absolutely impartially. Nobody could object really. Shri Venkataraman was our Chairman here; I have heard anybody objecting or saying was partial. Our present Chairman is there: there is no objection from anybody; or even the Deputy Chairman. She was a party man but nobody has raised any objection against her by saying that she is not acting impartially. Even we have the panel of Vice-Chairmen that consists of members from different parties, and nobody has ever said that a particular Vice-Chairman is acting partially. It is because the office has a different character altogether. What is necessary is that the person must have the ability, the character and public decency and certainly such a person can act to the satisfaction of all, though certainly not to everybody's satisfaction... (*Interruptions*).

tion of all, though certainly not to everybody's satisfaction... (*Interruptions*).

The second point is, Mr. Gurupadaswamy said that he desired that the Sarkaria Commission should have recommended that out of the three Lists of the Seventh Schedule—Union List, the State List and the Concurrent List—the Concurrent List should be abolished. Actually he is tight in saying that some of the powers are being taken to the Concurrent List from the State List. But they are still continuing in the State List though powers have also been taken to the Concurrent List. For example, education. Originally, it was exclusively a State subject. But now it is also in the Concurrent List. Now, we have to see whether it is good for the country or it is bad for the country. In my opinion it is good for the country for the reason that we want a united and integrated country. Therefore, wherever we find that on a particular subject powers should be exercised both by the Centre and by the State, it should be in the Concurrent List. Certainly the State has the executive powers. The power has not been taken away. After passing of by Parliament, then and then alone it comes to the Concurrent List. Therefore, in my respectful submission, the suggestion of Mr. Gurupadaswamy is not justified, and Sarkaria Commission was certainly justified in retaining all the three Lists.

Take residuary powers. Now residuary power is with the Centre. Certainly Mr. Gurupadaswamy's suggestion would be very valuable—I would say with respect—his suggestion would have been valuable if India today would have been completely free from the divisive forces. In that case, a strong Centre might not have been necessary. But right from the day of partition and independence, our country was in turmoil. There were strong divisive forces; more than 600 independent States had to merge with the country and there were other divisive forces in the name of religion, race, region. These divisive forces are there even today, they are continuing. Therefore, at this juncture do we need a strong Centre or a weak Centre. I have no doubt that the hon. friends would agree with me that a strong

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Centre is needed even today for our country; otherwise the country will go asunder. If was with this end in view, that the Constitution-makers immediately after the partition, were faced with this problem of so many divisive forces and they had this full picture before them. Therefore they provided for a strong centre, and for that purpose this was the inbuilt mechanism in order to keep the country in tact, namely, a single citizenship. Unlike in America, we have a single citizenship so that one cannot say 'I am an Assamese; I am not an Indian' or, 'I am a Gujarat; I am not an Indian'. We have a single citizenship. We are all Indian people. Only one citizenship.

Secondly, powers which are, particularly, necessary for the governance of the entire country have been given to Parliament for the purpose of enacting legislations. For the same purpose, residuary powers have been given to the Centre. The executive power of the Union to give directions to the States, under articles 256, 257(1) and 257(2). The Centre's executive control over the States under article 356 when the powers of the States are taken over by the Central Government. Financial control of the Centre, emergency powers under article 352 an integrated higher judiciary; uniform civil and criminal law for the whole country; common all-India services and the like. These are the various inbuilt devices incorporated into the Constitution by the framers of our Constitution and they did a good job—Although the Constitution-makers had no administrative experience before, because of their long freedom struggle, they knew the problems of the country; language problem, religious problem, ethnic problem and various other problems. Therefore, they made provisions in the Constitution in such a way that all these elements could be kept together under one unified country.

Now, regarding judiciary. The Sarkaria Commission has dealt with the High Courts only. It has not dealt with the Supreme Court. While dealing with the arrears of cases, it has identified that one of the causes responsible for the arrears of cases was the non-filling of vacancies in the

different High Courts, The Commission has agreed that one-third of the judges could be transferred but that the consent of the concerned judge was necessary. Originally, this principle that one-third of the judges must be from outside the State came by a Resolution adopted by the Consultative Committee in the Ministry of Law and Justice. Thereafter, the same Resolution was again accepted by a subsequent Consultative Committee attached to the Ministry of Law and Justice. They said—in my humble opinion very correctly—that one-third of the judges of a High Court must be from outside the State. This will serve two purposes. Firstly, the unity and integrity of the country. Secondly, in smaller High Courts like in " Assam, Orissa, Himachal Pradesh etc., it becomes difficult for some of the judges to try some cases. I myself had been a judge in the Assam High Court. It was a small area and we knew almost everybody there. Sometimes, when sensitive matters come up, it becomes very difficult for the judges to take up such cases. Therefore, it is necessary that at least one-third of the judges must be from outside the State. This is a very-very salutary principle and a very right decision

was taken by the Consultative Committee attached to the Ministry of Law and Justice. Very rightly, the Government accepted it and they are implementing it till today. Of course, consent should be taken. A judge cannot be told suddenly 'You go from Assam to Orissa' or, 'You go from Calcutta to Madras'. Consent should be taken. But this difficulty can be easily avoided by one method. Generally, new judges are appointed either from the Bar or from the subordinate judiciary. At the time of appointment, these people should be told confidentially 'When you are appointed as a judge, you may not be appointed in your own State; you may be posted to a different State. Then this problem would be solved. For example, in Assam if three judges are going to be appointed, all the three judges or one or two of them may be appointed in Assam or in Orissa or in West Bengal. This problem can be solved easily. I myself talked to some of these people, members of the Bar and members of the subordinate judiciary. I asked them

on

whether they would be willing, I appointed, to go to other States. They readily agreed. They said 'We do not have any objections. It is because the office of the High Court Judge brings an amount of prestige and respect. Everybody will try to be in his own State but there are other things also. Nobody refuses. This I am saying because I have consulted many and I have my own experience.

Now, what is the consultation procedure of appointing a judge? The Chief Justice initiates the names of as many persons as there are vacancies in the High Court. Under the rules they are to initiate the names six months before the actual vacancy takes place. He has to consult the Governor, that means the Chief Minister. After the Chief Minister agrees the name will be sent to the Central Government, that is the Ministry of Law and Justice. Then it will go to the Chief Justice of India. Then to the Home Ministry and to the Prime Minister. After the Prime Minister clears the name, it goes to the President for his signature and that be end of the matter. The problem comes when the name goes to the Chief Minister and he takes his own time because he has to send the names of his liking. Again there is a problem when in 8 States like Assam High Court there were five States? and now there are 7 States and if all the 7 Chief Ministers are to be consulted you know how much time it will take. But there is a short-cut method also. I am telling this from my own experience. The names need not be sent. The Sarkaria Commission has suggested addition of article 217(1) (A). It has said that the President of India co-aid be given powers to frame rules. According to those rules those authorities that will be consulted will be under compulsion to submit their reaction within a prescribed time. This is a good suggestion. I have no objection but that may not be necessary. What is necessary is, the Chief Justice should take the initiative. He can telephone the Chief Minister, invite him for a cup of tea. He is also a high functionary. Nobody should sit on the question of prestige. He can invite him over a cup of tea and discuss these matters with him. It may be embarrassing for the Chief

Minister to invite Chief Justice but the Chief Justice can always invite the Chief Minister. Certainly, he won't say, no. The names for vacancies can be sorted out there and then the matter becomes easy. So, my respectful submission is, it may be seen whether things can be sorted out in this way.

I will deal with one more point, namely, decentralisation of powers. According to the Preamble of our Constitution ours is a Sovereign Socialist Secular Democratic country. I am emphasising on the words "Socialist Democratic Ours is *inter alia* a socialist democracy. What is socialism. Five things are necessary. That is, what is called in Hindi *roti, kapru aur makan*, a house to live in then medical services and education. These are the things. Then, also participation in the governance of the country. It is very essential. Unless people are involved in the governance of the country, unless people develop themselves and their own regions according to their own genius, it is no socialism, it is no democracy. So, people must be involved in the development of the country. At the time of framing the Constitution our Constitution makers made a two-tier government, the power of the Centre and the power of the State, but now it has been realised that power must percolate to the people. The third tier has also to be constituted, namely, the village panchayats. The village panchayats, the municipalities, the local bodies must be activated. Now our experience is that most of the local agencies, the local governments are being superseded and many of the municipal corporations or local bodies are not functioning at all. They are being run by nominated persons. So it must be provided in the Constitution that in parallel with the Central Government and the State Governments, the elections must be held to these bodies for a certain period of time and thereafter again the elections must be held. That is very necessary. We are very grateful to the hon. Prime Minister because he has been emphasising on this. Very recently in his speech he did say that unless power percolates to the people, unless they are involved, unless they develop



[Shri Baharul Islam")

their own area the country cannot progress. Although it was not strictly within the terms of the Sarkaria Commission, the Commission did well to refer to this. I hope that as soon as possible, the Central Government will come forward with an amendment of the Constitution to give power to the local bodies and to the village panchayats. Thank you very much.

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): Mr. Vice-Chairman, Sir this debate on the Report of the Sarkaria Commission is taking place at a time when the relations between the Centre and the States have reached the lowest depth of tension and strain.

SHRI M. M. JACOB: Only in some States.

SHRI PARVATHANENI UPENDRA: We are witnessing today the spectacle of the Prime Minister openly threatening the duly elected State Governments with dismissal. The Central Ministers on their visits to the States are making provocative statements against the Chief Ministers and the State Governments. Above all, the agents of the Central Government, the Governors, are losing all their pretensions of objectivity and decency and behaving in the most atrocious manner, acting as the agents not only of the Central Government but also of the ruling party at the Centre. Therefore, this discussion is very important. I do not know whether it will open the eyes of the ruling party or not, but still it will serve the purpose of telling the nation what is happening in regard to Centre-State relations.

Mr. Vice-Chairman, Sir, there has been a sea change in the Centre-State relations since 1967. Prior to 1967, the ruling party at the Centre and in the States was the same. There was tension even at that time between the leadership at the Centre and in the States, but it was merely a party affair and the tension used to be resolved at the party level. But since 1967, when non-Congress governments were formed in the States, either through coalition or

singly, the Centre-State relations have undergone a major change and the working of the different constitutional provisions since then has resulted in the erosion of the States' autonomy. Since then the trend has been towards over centralisation, more concentration of power in the hands of the Centre and denial of legitimate resources and powers to the States. I can quote a few constitutional provisions in regard to which erosions have taken place—e.g. articles 200 and 201 with regard to reservation of State Bill for Presidential consideration, Article 249—Power of Parliament to legislate with respect to a matter in the State List—Articles 356 and 357 dealing with emergency —, provisions, article 312 dealing with All-India services and the enactment of different Acts such as the Industries (Development and Regulation) Act, 1951, the Mines and Minerals (Development and Regulation) Act, 1957, the Essential Commodities Act, 1955—to regulate trade and commerce in many essential commodities all these Articles and Acts have been amended to suit the convenience of the ruling party at the Centre, and the distortions had increased.

Then, where the non-Congress Parties formed Governments in the States, these Governments as well as the political parties in Opposition have been demanding a complete review and restructuring of the Centre-State relations and they demanded that the Centre-State relations be restructured in such a manner as to ensure cooperative federalism to which we are committed. Then, accordingly, Mrs. Gandhi appointed this Commission in June 1983 and, even after the appointment of the Commission, the Centre had not stopped needling the non-Congress Governments. We are aware how legitimately-elected Governments in Sikkim, Jammu and Kashmir and Andhra Pradesh were dismissed in 1984. Therefore, we were witnesses to all these illegal acts of the Government at the Centre.

The Sarkaria Commission laboured for several years, and submitted its report in October 1987. I must say at the beginn-

ing that we are not fully satisfied with the recommendations of the Sarkaria Commission, because this Commission appeared to be obsessed with a pro-Centre attitude and also a reluctance to recommend major Constitutional changes. Within the provisions of the Constitution, within the existing structure, they tried to do some tinkering and suggested some cosmetic changes. But whatever suggestions have been made, some of them are good and can be implemented straightway. On an analysis I could find that out of the 243 recommendations—the major recommendations which the Commission has made—136 can be accepted straightway by the States. I do not mean that the Centre would accept them, but from the States' side we can say that these are acceptable. In regard to other recommendations we have some suggestions, we have some modifications to suggest. The State Governments have been asked to give their opinion. Some of them have already given and some are yet to give. But I do not know to what extent the Centre is giving any importance to this Commission or its report.

Even after one year the Government does not appear to be acting on the recommendations of the Commission. There the stock answer is, "We have asked the States to give their opinion and it is awaited." But, even during this period they are acting completely against the recommendations of the Sarkaria Commission. At least in the case of one recommendation it is so blatant, that is, with regard to the appointment of Governors. The Sarkaria Commission has clearly recommended that active politicians belonging to the ruling party should not be appointed as Governors in the States ruled by the other parties. After the receipt of the Sarkaria Commission's report, Mr. Venkatasubash has been appointed as the Governor of Karnataka and

Mrs. Ram Dulari Sinha as the Governor of Kerala leave alone the other Governors who were appointed earlier, who were party activists. Even while the Sarkaria Commission has laid down definite guidelines as to how the Governors should function, how they should be disciplined and how they should adhere to

certain norms, the Central Government is reluctant to enforce them or to advise the Governors to act accordingly. The classic example is the behaviour of the Governor of Andhra Pradesh. We have mentioned in this House. Newspapers have editorially commented on the behaviour of the Governor. In spite of that, even today the Centre is not moving in that matter, and they are ignoring to notice the unconstitutional behaviour of the Governor of Andhra Pradesh. A similar situation is developing in Kerala also. Another lady is at large there, and she is also doing the same illegal, unconstitutional acts there. Therefore this is one sore point which the Centre has to notice and the Home Ministry has to notice. Unless they set right the behaviour of the Governors, it will only add to the present confusion and the strain in the Centre-State relations.

Mr. Vice-Chairman, within the time available to me, I will deal one by one with the recommendations and the stand my party and my party Government have taken in the matter.

I will first take the legislative relations. The Sarkaria Commission has recommended that the residuary powers of legislation in regard to taxation matters should continue to remain exclusively in the competence of Parliament while the residuary field, other than that of taxation, should be placed on the Concurrent List. But our stand is that residuary powers including taxation must be in the Concurrent List. This point I would like to emphasise. This is a must. This is one matter with regard to legislative relations. There are other points which I do not want to comment on. Otherwise, you will ring the bell.

In regard to the administrative relations, I would quote the para which the Sarkaria Commission has mentioned:

"Federalism is more a functional arrangement for co-operative action than a static institutional concept. Article 258 provides a tool by the liberal use of which co-operative federalism can be substantially realised in the working of the system. A more extensive and

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general use of this tool should be made than has hitherto been done for progressive decentralisation of powers to the governments of the States or their officers and authorities."

Therefore, that should be strictly adhered to, and this recommendation should be accepted.

Then, the other point is in regard to the role of the Governor. The Report in its recommendations 13 to 46 deals with this subject. Our stand has always been that this institution is unnecessary and that the institution of Governor itself should be abolished. This is a remnant of the colonial rule. The way the Governors are functioning now and have been functioning shows that this institution is unnecessary and should be abolished in the interest of smooth Centre-State relations.

Some people have expressed doubts and asked what would happen to those functions ceremonial and other functions which the Governors are expected to do. Mainly the Governors are doing three functions—formation of the Ministry, summoning, proroguing and dissolution of the House and reservation of Bills. In all these matters, I don't think the Governor's presence is necessary. I will only quote the opinion of the Andhra Pradesh Government and our party in this regard which will answer all these points:

"So far as formation of the Ministry is concerned, immediately after the general elections the Vice-President could either himself or through an emissary nominate a pro-tem Speaker. Once this task is performed, the Ministry could be formed by the party enjoying absolute majority, in the event of a single party not being able to form a Ministry the pro-tem Speaker could refer the matter to the Vice-President for his decision. The Vice-President, being the Chairman of the Rajya Sabha, that is, the Council of

States, and who is higher in warrant of precedence than the Prime Minister and who is at the same time not constitutionally obliged to act on the aid and advice of the Prime Minister and the Council of Ministers, could take an independent action. The decision of the Vice-President will be invested with impartiality and objectivity, and there could be no public criticism."

Then, the second thing is, we also feel that the majority of the party in power should actually be tested only on the floor of the House, and no extra-constitutional method should be resorted to for dismissing a Ministry. And no extra-constitutional methods should be resorted to for dismissing a Ministry. With this salutary principle there is no need for a Governor to intervene in the functioning and continuance of a Ministry. Regarding summoning, proroguing etc. this duty can be discharged by the Speaker of the State Assembly. A set of guidelines for the speaker regarding summoning, proroguing etc. can be provided.

In regard to the reservation of the Bill also the Governor's presence is not necessary. You can give clear guidelines which Bills should be sent for President's assent etc. and that would be done automatically.

As regards the Constitutional provision of commencing the session etc that can be done by the Speaker himself.

The address to the Assembly of the joint session, where the Legislative Council exists, is only a policy statement of the Government and there is no need for the Governor to come and read it sometimes containing embarrassing sentences in that. The Chief Minister himself can give his policy statement there.

As regards swearing-in etc. which the Governor does, it can be done by the Chief Justice of the State. Therefore, none of the functions would suffer if you abolish the institution of Governor. In fact, it will lead to more harmonious re-

lations between the Centre and the States and you can avoid situations which are . now obtaining in various States.

In regard to the deployment of the armed force the Sarkaria Commission has clearly said that the armed forces of the Centre should be sent to the State only on the request of the State Government. That should be scrupulously avoided.

As regards the All India Services, we feel that the ratio between the direct recruits and the promoted Officers from the State services should be in the ratio of 1:2, because the State Government Officers are fully aware of the local conditions. Therefore, they will be in a better position to take decisions and be in constant touch with the people.

We are against creation of any new All India Services though the Sarkaria Commission has referred to creation of Indian Service of Engineers, Indian Medical and Health Service, All India Service for Education, Agriculture and Cooperation etc. We are against creation of any new All India Service.

The Sarkaria Commission has clearly recommended immediate setting up of the inter-Governmental Council under Article 263 of the Constitution. It is there from the beginning, but the Government is refusing to appoint this Council. It must be done immediately. There is no need for any Standing Committee of this Council. On the Inter-State Council, the Sarkaria Commission recommended there should be Standing Committee. I think there is no need for the Standing Committee. The Council should consist of the Prime Minister as Chairman, the Chief Ministers of States as Members while the Union Territories can be represented by the Lt. Governors. But all the Union Ministers need not be members

of the Council. There is no necessity for that. When a particular subject is discussed, the concerned Minister can attend, but they need not be members of the Inter-Governmental Council. We are particularly against this Standing Committee.

It is not necessary. Moreover, all the meetings of the Council must be in public, not in camera, as recommended by the Sarkaria Commission, because people should know what is being discussed there. There is nothing secret in these things.

Then the Commission has recommended a number of financial measures, which we fully endorse, though they are not adequate. The major recommendations include that the Corporation tax should be made shareable with the States and certain other levies, loans procedures etc. should be liberalised in favour of the States. Reconstitution of the National Development Council as National Economic and Development Council under Article 263 with small Standing Committee. Then, the Finance Commission cell proposed to be located in the Planning Commission, should continuously monitor the behaviour of States' finances. We are against this. There is no necessity for this and the Planning Commission need not have this. The terms of reference of the Finance Commission should be finalised by the Centre only after due consultations with the States. This must be adhered to. Even though recently the non-Congress (I) Chief Ministers want some changes in the terms of reference of the 9th Finance Commission it was not agreed to. All the terms of reference must be finalised in consultation with the States.

The Constitution should be suitably amended to add the subject of taxation of 'advertisement broadcast by radio or television' to Entry 92 List I and Article 269 (1) (f) etc. The Planning Commission's role must be clearly defined in this respect.

Then, as regards the industries, it is a subject primarily of the States but the Centre has been appropriating all these powers in regard to the Industrial Regulation Act and the previous position must be restored.

Similarly, Mines and Minerals Regulation Act also whatever was there previous.

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ly that should be restored. All industries except those connected with the Defence or National Security or war effort should be allowed to be regulated by the State Governments. There is no need for people to rush to Delhi for getting every licence. This can be decentralised and particularly a large number of industries in the consumer field and light industries should be excluded from the Industrial Regulation Act so that the State Governments themselves can take action with regard to those things. Then, I do not want to take up mines and minerals, agriculture because there are a number of suggestions in regard to them which are not very relevant right now. But I come to Inter-State river water disputes. In its recommendation about that the Sarkaria Commission says: "Inter-State Water Dispute Act should be amended to empower the Union Government to appoint a Tribunal *suo moto*, if necessary when it is satisfied that such a dispute exists in fact." It is not desirable unless the States concerned want that should be invoked. Then only this should be done. Then, there is another recommendation which we accept. The Inter-State Water Dispute Act should be amended so that a Tribunal award has the same force and sanction behind it as an order or a decree of the Supreme Court to make a Tribunal's award binding. That can be accepted.

Then one more major recommendation—the Sarkaria Commission has not liked up to the expectations of the people—is that regarding radio and the T.V. There is a recommendation about the mass media. With regard to this he has not come to our expectations in his recommendations. We have been repeatedly stressing the need for making the mass media autonomous corporations and States also should be permitted to set up their stations subject to certain conditions and restrictions. There must be a statutory body to administer this so as to inspire in the State Governments the confidence

that any restriction which is imposed is really in the interest of the nation as a whole. Once you allow the States to have a station you can set up statutory body to put reasonable restrictions and that statutory body can monitor the programmes broadcast/telecast by the States. Pending these arrangements, the States should be given a second channel on the Doordarshan. This should be given for their programmes.

These are some of the recommendations on which I specifically wanted to comment. There are as many as 243 recommendations, out of which 136 are acceptable to the States and they should be implemented. In regard to other recommendations also, the Government must convene a meeting of the Chief Ministers as well as the various political parties to discuss the recommendations and arrive at a national consensus on this because the Constitution may have to be amended and before we do that, it is necessary that we have consensus, on this. After all, it is not a question of ruling party at the Centre or ruling party in the States but this is in the interest of the nation and in the interest of smooth functioning of the Governments at the Centre and in the States. To remove the present irritants in the Centre-State relations, the Central Government has to take a number of steps not only implementing the positive recommendations of the Sarkaria Commission but also removing the negative factors which are operating in the States. I mentioned before the Home Minister came how the State Governments are threatened with dismissal now the Union Ministers including the Home Minister speak about the Chief Ministers and State Governments. The Home Minister, particularly should be concerned about the harmonious relations between the Centre and the States. But he himself comes forward to attack the State Governments and State Government leaders. It is not fair. I mentioned this earlier also. I do not know why he takes a lead in this matter. He should be more in touch with the Chief Ministers should have constant dialogue with them and if there is any misunderstanding or irritants, he should

remove them. Instead, he himself is causing such misunderstanding and making provocative statements. In the Parliamentary history, there was no occasion when 23 portions of his speech were expunged. That itself shows that the Home Minister, somehow, is off the track and I know, he will correct himself with all his statesmanship and wisdom; he will restore his balance and also the balance between the Centre and the States. Before I conclude, Sir, I appeal to the Central Government that in the interest of the nation as a whole and in the interest of the country's progress, we should act in concert so that whatever imbalances, whatever irritants, whatever distortions have taken place in the Centre-State relations, they can be removed immediately so that we can progress, the nation can progress. Thank you.

SHRI DEBA PRASAD RAY (West Bengal): Mr. Vice-Chairman, Sir, no other issue has assumed so much importance or significance, in recent years, in our country as the issue of Centre-State relations. On umpteen number of occasions, the subject had been discussed and ultimately the Sarkaria Commission was appointed in 1983, to ponder over the whole issue. Even after the Commission was appointed, in the arena of Commission, when the subject was considered, pondered over, and discussed, in the arena of the Opposition parties, the issue also was being considered and discussed and taken care of. Many conclaves were held and one of the most effective conclaves held during those days was held in Sri-nagar in 1983, in the month of October, from 5th October to 7th October, which was organised by Dr. Farooq Abdullah, the then Chief Minister of Jammu and Kashmir and had representation of almost all the Opposition forces on that occasion. In that particular conclave, one of the eminent political personalities till then who was with the Opposition and who was revered and respected by the Opposition forces, who participated in the discussion, made certain observations. I would like to quote the same observations which were made by Babu Jagjivan Ram on that occasion.

That ours is an unfortunate country. Before independence, India was never administratively one and fortunate at any stage. Whether it was a period of Ashoka Chandra Gupta or Akbar, India was never one. It is for the first time, that India has become one. We should not take any step by which this unity and integrity of the country is affected in the smallest measure."

I believe, it was not the voice of Babu Jagjivan Ram alone it was the voice of the Opposition on that occasion and the Opposition forces still stand by the observation made by Babu Jagjivan Ram in that particular conclave. Sir, the voluminous report that has been submitted by the Sarkaria Commission has rolled over many aspects and many recommendations have been made. But, if I have understood the observations, I believe that the entire observations are centering around, one concept and that is the concept of attitudinal change, attitudinal change of the Centre as well as the State.. Now, Sir, the question is: Whose attitude should be changed and towards whom? Is it the attitude of the Centre towards the States that deserves to be changed or is it the attitude of the States towards the Centre that deserves to be changed? Or does the entire dimension deserve to be reviewed from the point of view of taking into consideration the ruling character of a party and the opposition character of a political party? Sir, I would like to say that this was never a slogan in the early 50s in our country. This was neither a slogan in the early 60s in our country. The slogan or the issue of Centre-State relations come on the surface in the late 60s. It became very prominent in the early 70s and subsequently it became a subject of discussion and a major political issue. I rather specifically say here that it was for the first time in my political life when I came across the slogan in 1971 when the Marxist Communist Party fought elections in Bengal with the slogan that the State has to be provided with more power. Since then the issue has been taken up and discussed on many occasions. Sir, this issue also became relevant only after the

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idea of getting a State ruled by the opposition forces became a reality. Only after we had seen the advent of many opposition forces as the ruling parties in different States this issue also became relevant. I would like the proposition or observation of mine to be accepted at least by the hon. Home Minister, if not the whole House, that it is not really a question of reviewing the relationship between the Centre and the States, but it is a question of reviewing the relationship between the ruling forces and the opposition forces. As far as the aspect of relationship between the ruling forces and the opposition forces is concerned, it cannot be a one-way traffic. It has to be a both-way traffic.

Sir, while I reserve my comment on the observations made by many eminent Members of Parliament from the other side, I would like to ask how the powers that have been provided to the States under the Constitution have been harnessed by them on certain occasions. Sir, in this regard, I will have to mention the issue of law and order. Whenever the issue of law and order is raised in this forum, we have always been told that it is a State subject. It is really a State subject. I would like, in this particular forum, a discussion as to how the law and order situation is being taken care of by the ruling parties in the Opposition-ruled States, how the opposition force, are being persecuted by them in the name of maintenance of law and order. Umpteen number of cases have been produced before this House how the opposition forces are being exterminated, persecuted, physically liquidated, in the opposition-ruled States particularly in West Bengal. This demands a review of this particular concert. This warrants a review of the aspect whether the issue of law and order should remain with the State exclusively as a State subject or whether it deserves to be brought in the Concurrent List so that from time to time there will be scope for the Central Government to intervene to ensure that democratic rights in the Opposition-ruled States are not lost, that democratic rights are not denied to the opposition force, in the Opposition-ruled

States and that democracy is saved and protected, sir, as on date, as per the Constitutional provisions, when there is law and order problem in a particular State, the State is free to seek the cooperation of the Central Government.

[The Vice-Chairman (Shri B. Satya-narayan Reddy) in the Chair]

So far whenever a requisition came from any State for that matter, the Central Government stood by the request of the State Government, it would like to cite one example. When the GNLF activity was very acute in Darjeeling, when it was causing a major law and order problem in the State of West Bengal, a request came from Chief Minister Jyoti Basu for deployment of CRPF and BSF in Darjeeling. The CRPF and BSF were deployed there at the request of the State Government. But the State Government very clandestinely harnessed these services to give the impression to the GNLF activists that while we want to take care of you politically, while we want to redress your problems, the Central Government sends CRPF to persecute you and exterminate you. That was the impression given by them while harnessing the Central police forces to take care of the law and order situation in Darjeeling. I would like to mention here more specifically, the houses of GNLF were attacked by the CPI(M) activists, the jeeps of the CRPF were taken forcibly by the State police administration, the jeeps of the CRPF were utilised by the CPI(M) activists, the CPI(M) activists got into the dress of the CRPF personnel to fake the CRPF, and attacked the houses of GNLF activities and persecuted, and gave the impression—your houses were raided by the CRPF. This is how the assistance of Central Government is being harnessed there or rather exploited there by the State Government, in that Opposition-ruled State. Therefore, this is one aspect which deserves to be reviewed, whether the question of law and order would continue to remain a State subject or it deserves to be brought under the Concurrent List. Similarly, the institution of Election Commission is a Central subject. But here whenever an election is conducted,

cooperation of the State Government is borrowed to constitute election machinery so that the election conducted is free and fair. I would not like to quote areas where I have not gone personally to see how elections were conducted. But I would like to tell you how an election is conducted in Bengal in the name of holding a free and fair election. When enumeration takes place, all the CPI(M) activists are deployed to ensure that five per cent Congress (I) voters are deleted from the voters' lists and five per cent fictitious voters from their side are included in the lists thereby from the beginning itself they are ahead of the Congress Party and a margin of ten per cent is always ensured to win the election. And then when the polling stations are manned, only people who are members of the Coordination Committee are deployed as polling officers and presiding officers. When the polling booths are policed, only those members of the non-gazetted police employees associations are deployed to man the polling booths as police personnel. When the Congress fights an election, it has to fight a motivated presiding officer inside the booth and a motivated police personnel outside the booth and Congress workers have to fight the CPM hoodlums on the street in the

State of West Bengal. This is how the institution of Election Commission is being harnessed. They are exploited by the ruling party in Bengal which is considered an Opposition-ruled State. This is another aspect which deserves to be reviewed when the issue of electoral reform is considered by the Government. And I would like to say kindly ensure that the Election Commission is provider" with an independent inland infrastructure to be able to conduct elections in each and every Op-m ruled State without being dependent on the machinery of the concerned State. That the election is not rigged and manipulated find won even before the battle is really fought.

Then I would like to say comments have been made about the behaviour of a Governor in our north-eastern States particularly in relation to the dissolution

of the Nagaland and Mizoram Governments. I would say even if it is belated, the Governor in the north eastern States deserves to be complimented, because with the decision of dissolution of those two Governments, for the first time the politics of defection has been a goodbye on a permanent basis; scope was not given to the people to form a Government with the help of defectors.

Those who talk of clean political life, those who talk of morality in political life must take into consideration this particular aspect that opportunity was not given to the people who wanted to come to power through defection, and Governor's Rule was promulgated in Nagaland and Mizoram.

Sir, I do not want to enter into any controversy with our Telugu Desam friends from Andhra Pradesh. They have made certain observations about the role of the Governor in Andhra Pradesh. Unfortunately, Sir, you are in the Chair now.

AN HON. MEMBER: Why unfortunately?

SHRI DEB A PRASAD RAY: Unfortunately for me.

SHRI PUTTAPAGA RADHAKRISHNA: You cannot attribute anything to the Chair. . . (Interruptions) . . .

SHRI DEBA PRASAD RAY: I am sorry. If I have made a mistake I will apologise . . . (Interruptions) ... I apologise if I have made any wrong observation.

SHRI BAHARUL ISLAM: You are fortunate that he is there.

SHRI DEBA PRASAD RAY: Yes. I am fortunate that he is in the Chair when I make these observations. I stand corrected.

THE VICE-CHAIRMAN (SHRI B. SATYANARAYAN REDDY): Go on to your next point. Do not enter into any unnecessary controversy.

SHRI DEBA PRASAD RAY: Of course. | the State Government was dissolved by a



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Governor and thereafter, that Governor was withdrawn and a personality with high moral integrity was specially sent to Andhra Pradesh as the Governor to undo the mistake done by the earlier Governor and he restored the political status of the Chief Minister. While dealing with the powers of Governor, I would request the Government of India to take note of the role played by the Governor in West Bengal that when the Congress (I) people went to him on deputation from time to time on the issue of the law and order problem on the issue of persecution of the Congress (I) men in the State, I am sorry to state, the cases have not been seriously taken note of by the Governor of West Bengal. I would like to say on the floor of this House that these are the areas which deserve to be considered by the Government of India while giving effect to the Sarkaria Commission Report.

Sir, can I also raise this issue that when this particular floor, the floor of the Rajya Sabha, is made available to the Opposition to discuss the issue of Bofors, to discuss the issue of the submarine deal, on umpteen occasions, why the Assembly floor could not be made available to the Congress (I) men of West Bengal to discuss the issue of the Tram Company scandal there, to discuss the issue of the Bengal Lamps scandal there? Why should the Opposition forces be physically assaulted on the floor of the Assembly by the ruling party people while making a demand to raise the charges of corruption? Why? Why should the Congress (I) MLAs be required to sit in a dharna near the Governor's residence asking for holding the Assembly session to discuss all these issues? So, I would like to say that it is not merely a question of the ruling forces; at the Centre changing the attitude towards the States ruled by the Opposition forces, but it is also a question of changing their attitude towards the ruling parties in the Opposition-ruled States, towards the Opposition forces in their respective States.

Sir, when we talk of giving more powers to the States by the Centre, we should

also discuss the concept of giving more powers to the local bodies by the State Governments and the zila parishads, municipalities and the panchayats must be strengthened and must be given adequate powers to decide the destiny of the poor people by those who reside in the villages in this country.

SHRI M. A. BABY: Elections should be held to all the panchayats.

SHRI DEBA PRASAD RAY: Elections have been conducted. You go to U.P. It is in the midst of holding the panchayat elections, the largest State in the country.

Similarly, when we raise the issue of giving more financial powers to the States, when we raise the issue of making more financial allocations to the State Governments, I would like to say that when it is the question of giving more financial assistance to the State Governments, it should also be the question of giving more financial powers to the local self-government bodies by the concerned State Governments. Unfortunately, in the State of West Bengal I would like to tell you—I am taking this opportunity of raising this particular aspect on this floor—that the municipalities and the panchayats controlled by the Congress(I) party who are in the opposition in West Bengal are not provided with funds. Those panchayats, zila parishads and municipalities which are controlled by the congressmen, when funds are being allocated to the local bodies, those elected bodies controlled by the Congress (I) are not provided with funds. Only the Panchayats Only the panchayats controlled by the controlled by the CPT (M) and only the Zila Parishads controlled by the CPI(M) or Front Allies are being provided with the financial allocation. The panchayats and zila parishads controlled by the Congress are always denied allocations so that they are ridiculed politically so that they are not able to give economic relief to the people, so that they are not able to grow politically. While discussing this thing, this particular aspect should be taken into

consideration as to how the States should behave while allocating financial assistance to the Local Self Bodies and whether ten States are rightfully supposed to discriminate between X panchayat and Y panchayat only on political considerations.

Similarly, there is the question of giving employment to the unemployed people. Sir, the employment opportunities arise from time to time in the State sector as well as in the Central sector. As on date, the position is that the candidate has to have his name sponsored by the Employment Exchange so as to enable him to get employment in the Central sector or in the State sector or in a bank or in the State Labour office or in the Food Corporation of India or in the Zila Parishad. In all the cases, the names are to be sponsored by the local Employment Exchange in order to provide opportunities to a Youngman and to enable employment. But I may tell you with all authority and with all information, that in the State of West Bengal, those who are not aligned to the ruling party will not be given a chance and the names of these unemployed persons will never be recommended by the local Employment Exchange for employment. Their names would never be sponsored by them for consideration or for appointment to any post. I would therefore, request the Government of India on his occasion, taking the advantage of this debate, to explore the possibility of having the Employment Exchanges administered by the Central Government. *(Interruptions)* Even otherwise, I am so vulnerable that if I yield to you, then I will not be able to stand up again.

SHRI M. A. BABY: Sir, the hon. Home Minister is also here. Kindly yield to me for a moment. He has said that in the State of West Bengal, only those who belong to the Left Front are being given employment. Our Home Minister is here. Some time back, it was made known that in the case of three States, i.e. West Bengal, Kerala and Tripura, a special verification is conducted by the Central Gov-

ernment for employment in the Central sector over and above the verification conducted in the State. Is it correct? In that case it is a discrimination,

SHRI BUTA SINGH: If this question is directed to me, then the answer is no. If it is directed to Mr. D.P. Ray, he will answer it.

SHRI DEBA PRASAD RAY: I don't think that the question was directed to me. I would like to say that this necessitates that the Central Government should set up its own Employment Exchanges to ensure that while selecting people in the Central sector, there is no discrimination made on political grounds. Political decisions are not taken, opportunities are given to all and all the suitable people are considered for appointment.

I would like to refer to two aspects of the recommendations made by the Sarkaria Commission. The Sarkaria Commission has recommended that the Government should constitute another Governmental Council. I believe that if the Government opts for it and forms a Council, it would definitely create a congenial atmosphere to create cordial relationship especially between the States and the Centre. Therefore, I stand by the recommendation made by the Sarkaria Commission on this issue. Also I stand by the recommendation made by the Sarkaria Commission about renaming the National Development Council and forming it as a National Development and Economic Council to ensure the participation of grassroot agencies in the process of planning. Sir, I would like to say that as far as this aspect is concerned, I take this opportunity to compliment our Prime Minister who has already undertaken the exercise of involving the grassroot level people in the planning process and had interaction with the grass-root level officer and has already opted for decentralised planning. So, I take this opportunity to compliment him on this aspect.

Finally, Sir, before I conclude, I would say that all these issues are irrelevant for Opposition forces in Bengal unless and

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until basic democratic right is ensured to the Opposition forces in the land of Bengal. Sir, on this occasion, I would like to quote one particular episode that has taken place day before yesterday in the Central Hall itself. Mamata Banerjee, Lok Sabha Member, who has not been able to protect her people in her constituency where a number of Congressmen have been killed in recent days, where the Home Ministry has not been able to play any role in restoring the law and order situation while talking to the hon. Minister of State for Home Affairs, Shri San-tosh Mohan Dev—he is not here now—she burst into tears and said that if this continues, then there is no point in re-maining in political life and that it is better we resign and quit the public life. Sir, if that is the situation if that is the state of affairs in the State of Bengal, what to talk of Centre-State relations or relationship between the ruling forces and the opposition forces? Sir democracy itself is in peril; democracy itself is in jeopardy; democracy itself is in subversion. So, I would appeal to the Home Minister that while taking decision on this particular issue, the Home Ministry may please take into consideration this aspect that in Bengal it is the Central Government which stands responsible for the restoration of democracy, it is only the Central Government which stands responsible for ensuring democratic rights to the people in the State of Bengal.

With these words, Sir, I conclude.

**श्री चतुरानन मिश्र** उपसभाध्यक्ष महोदय ;  
मूझसे पूर्व हमारे मित्र श्री डी०पी० राय  
जी अभी बोल रहे थे और सेंटर स्टेट  
रिलेशंस पर जो चर्चा हो रही है उसमें  
उन्होंने बंगाल की चर्चा करते हुए कहा  
कि केन्द्र को और वहाँ पर अधिकार  
देना चाहिए । हमको लगता है कि वे तीन  
बार इलेक्शन वहाँ हार चुके हैं और  
अब दिल्ली को कहते हैं कि वहाँ जाओ ।  
जब दिल्ली भी हाथ से चली जाएगी तो  
फिर न्यूयार्क को कहने कि हमारी मदद  
करो ।

**श्री देव प्रसाद राय** : आप तो कभी  
हमारे साथ रहकर जीते, कभी उनके साथ रह-  
कर जीते । आपको तो दोनों का तजुर्बा है ।

**श्री चतुरानन मिश्र** : हारते हैं या जीतते हैं  
तो भी आपके साथ रहेंगे, आपके साथ  
बात करेंगे आपके घर में रहकर कोई नया  
रास्ता निकालेंगे ।

**श्री देव प्रसाद राय** : हमारे सहारे तो आप  
जीते और भागकर उनके साथ चले गए ।

**श्री चतुरानन मिश्र** : आपने केन्द्र राज्य  
संबंध के संदर्भ में कहा, इसलिए आपको  
मैंने कहा ... (व्यवधान)

श्रीमन् हमारे गृह मंत्री जी ने कहा कि  
सरकारिया कमीशन की रिपोर्ट पर हम  
ओपन माइंड से विचार करना चाहते हैं,  
सरकार का माइंड खुला हुआ है । हमें  
लगता है कि सरकार का माइंड है क्या जो  
कभी खुलेगा या बंद होगा ? जब हमारे  
प्रधान मंत्री जी या गृह मंत्री जी किसी  
गैर-कांग्रेसी राज्यों में जाते हैं तो दूसरे ही  
दिन अखबारों में कोई न कोई कट्टीवर्सी  
निकल जाती है । अगर ऐसा ही माइंड  
है तो आप देश को कैसे चला सकेंगे ?  
इसलिए हमको लगता है कि सरकार का  
माइंड ही नहीं है तो ओपन क्या होगा ?  
मैंने खोजने की कोशिश की कि इस  
संबंध में सरकारिया कमीशन ने क्या कहा  
है । मैं उसके पेज 15, पैराग्राफ 1.4.18  
को कोट करके आपको सुना देता :

"the composition of the Congress Party  
underwent a change particularly in the  
States. The new political leaders were  
distinctly different from their predecessors.  
They were younger and not steeped in the  
Gandhian traditions of the pre-Independence  
era... It was no longer the lawyer or doctor  
sacrificing a lucrative practice or the teacher  
trowing up his calling to join politics. It  
was the local leader commanding money,  
muscle power and caste or communal  
loyalties who came to the forefront of State  
politics."

यह नवी कांग्रेस है इसीलिए समस्या उठ गयी है यहाँ से। हम चाहेंगे जब गृह मंत्री जी जवाब दें तो इस बारे में अवश्य बतायें। वैसे उन्होंने तो साम्प्रदायिकता से जबर्दस्त लड़ाई ठानी है लेकिन इस प्रश्न का अवश्य जवाब दें। नयी कांग्रेस इस ढंग से बनायी है जिसके चलते यह प्रश्न उठ खड़ा हुआ है। अब गांधीयन ट्रेडिशन नहीं है। आपने देखा इसमें तो न-चार चीजें हैं जैसे मसल पावर और दूसरी पावर्स। यहाँ अब इनका सिद्धांत है...

**श्री गुलाम रसूल भट्ट :** यह सभी पार्टियों के लिए है।

**श्री चतुरानन मिश्र :** यह सिर्फ कांग्रेस पार्टी के बारे में है। दूसरी पार्टियों का रहता तो मैं उसको भी कोट करता। डॉ० पी० राम जी का रिपोर्ट होती तो हम सहानुभूतिपूर्वक विचार करते। यह तो हमने सरकारिया कमीशन से हमने बताया है। यह रिपोर्ट करीब पांच किलो भारी है, काफ़ी पेज हैं इसमें। इसको पढ़कर सब पर बोलना आपके घटो रहते सम्भव होता नहीं है। हमको यह लग रहा है कि जो देश की ज्वलंत समस्या है बनिंग इश्यू है उसके बारे में सरकारिया कमीशन सरकारी ज्यादा है, कमीशन कम है। यही एक सबसे बड़ा प्रश्न उठ गया है। नहीं तो उसने कुछ अच्छे सुझाव दिये हैं जिसकी हम चर्चा करेंगे।

सबसे बड़ा प्रश्न है आर्टिकल 356 के बारे में। इसका लगातार दुरुपयोग होता है। उसने स्वयं यह माना है कि 75 बार राज्य सरकारों को भंग किया गया है। जरूरत इस बात की थी कि स्पष्ट और सख्त कानूनी व्यवस्था इस दुरुपयोग को रोकने के लिए की जाती। इसमें जैसे सरकारिया कमीशन ने अच्छे-अच्छे उपदेश और भाषण दिये हैं वो भाषण तो डा० अम्बेडकर से लेकर आज तक लोग दे चुके हैं। क्या कमीशन को मालूम नहीं था कि अच्छे उपदेश और भाषण से कांग्रेस पर कोई असर नहीं पड़ता। इसी से यह समस्या उभर कर आयी है और कमीशन यह देखने में असफल रहा है कि लगातार सत्ता और

सुविधा का केन्द्रीयकरण करके केन्द्र को ब्लड प्रेशर और राज्य को एनीमिया हो गया। ऐसा सेंट्रलाइजेशन आफ पावर हो गया है कि भयंकर स्थिति उत्पन्न हो गयी है। इसलिए हम चाहेंगे कि इस संबंध में आप सभी पार्टियों के लोगों के साथ बैठ कर विचार करें। क्योंकि हमें सारे देश को चलाना है...

**श्री पवन कुमार बंसल (पंजाब) :** आपके कुछ लोग बैठ ही नहीं सकते।

**श्री चतुरानन मिश्र :** नहीं बैठ सकेंगे तो देश एक कैसे हो सकेगा। आप छोड़िये दूसरा आ जायेगा। (व्यवधान) देश को एक रखना है इसलिए आप से कह रहा है। नहीं रहेंगे तो दूसरे से कह देंगे।

दूसरे राज्यपाल की बहाली के बारे में कुछ दिया क्रिया है। वह मैं समझता हूं उसे लागू करने की जरूरत है। लेकिन कमीशन ने सारी चीजों को कानूनी दृष्टिकोण से देखा है राजनीतिक दृष्टिकोण से नहीं। जैसा आप देखेंगे आर्टिकल 370 है। जो जम्मू-कश्मीर के लिए है। उसके बारे में उन्होंने कहा है हम चुप रहेंगे। कमीशन ने कहा हम राय नहीं देंगे। इतना बड़ा इश्यू है। हम सभी चाहते हैं कि यह स्पष्ट हो। कंस्टीट्यूशन में भी इस बारे में साफ है। मैं अनुच्छेद 370 के बिल्कुल पक्ष में हूं पेज 88 कमीशन की रिपोर्ट में यह लिखा है इसमें वह चुप रहेगा। यह अत्यन्त दुखद बात है। ऐसी समस्याओं के बारे में जरूरत इस बात की है कि इसका पालिटिकल सोल्यूशन निकाला जाये। और इसमें कमीशन असफल रही है। राज्यपाल की बहाली के बारे में अच्छी बात है जिसका मैं समर्थन करता हूं। राज्यपाल के पद और रोल के बारे में कमीशन अच्छी तरह नहीं समझ सका। राज्यपाल केन्द्र का एजेंट नहीं है। एक ही कंस्टीट्यूशन है। उस कंस्टीट्यूशन के अंदर एक अनुच्छेद के मुताबिक केन्द्र राज करता है और दूसरे अनुच्छेद के मुताबिक राज्य सरकार राज करती है। एक अनुच्छेद के मुताबिक राष्ट्रपति बनता है और दूसरे अनुच्छेद के मुताबिक राज्यपाल बनता है। कैसे कहेंगे यह केन्द्र का

on

[श्री चतुरानन मिश्र]

एजेंट है। हिन्दी में एजेंट को क्या कहते हैं दलाल या मुझे ठीक से नहीं मालूम। वैसे वह अच्छा शब्द भी नहीं है। हम उसे इस्तेमाल भी नहीं करेंगे। हमने कहा ऐसी कुछ स्थिति है देश की। मैं इसमें आपको धोखा 5.00 P. M. हो गया। इसलिए मैं यह कहना चाहता हूँ कि राज्यपालों की बहाली के बारे में जो उन्होंने यह कहा कि स्टेट गवर्नमेंट्स को कंसल्ट करना चाहिये, यह ठीक है। लेकिन इनके रोल के बारे में कोई अच्छा सेफगार्ड होना चाहिए था जिससे इस पद का दुरुपयोग नहीं हो सके। अगर इस बारे में भी कुछ कहा जाता तो अच्छा होता। मैं यह बात किसी एक राज्य के लिये नहीं कह रहा हूँ। सिर्फ बिहार के लिए नहीं कह रहा हूँ, सब राज्यों के लिए कह रहा हूँ। दूसरी बात मैं यह कहना चाहता हूँ कि राज्यपालों को केन्द्र का एजेंट कहना सुप्रीम कोर्ट ने रघुकुल तिलक केस में जो निर्णय दिया है उसके खिलाफ जाता है। सबकी बात तो यह है कि राज्यपाल विधान सभा को मेजोरिटी को कैसे डिटरमिन करें, यह बात पक्ष और विपक्ष, दोनों तरफ से उठाई जाती रही है और कभी किसी के फेवर में बात चली जानी है और कभी किसी दूसरे के फेवर में चली जाती है। इस संबंध में इस कमीशन को कोई रेडीमल सुझाव देना चाहिए था जिसमें वह फेल हुआ है। होना यह चाहिए कि हाउस में इसका निर्णय हो कि किस पार्टी की मेजोरिटी है। अगर यह बात राज्यपाल तय करता है तो आपको भी गालियां सुननी पड़ती हैं और उसकी डिफेंस में आना पड़ता है। अगर हाउस में स्पीकर के सामने तय हो जाय किस पार्टी के ज्यादा बोट हैं तो मेजोरिटी का फ़ैसला हो जाता है और अगर कुछ पार्टियां आपस में मिलती है तो कोअलिशन गवर्नमेंट बन सकती है। यह बिल्कुल सिम्पल तरीका है। इसको अपनाया जाना चाहिए।

दूसरा प्रश्न जो हमारे सामने है उसके लिए मैं 'केन्द्र' शब्द प्रयोग कर रहा हूँ, 'राष्ट्रपति' शब्द का प्रयोग करना ठीक नहीं होगा। होता यह है कि स्टेट्स से जो विधेयक पास होकर आते हैं उन पर केन्द्र सरकार सोई रहती है। केन्द्रीय सरकार

ऐसी सोती है, शायद कुम्भकरण भी इतना नहीं सोता होगा। अभी 77 स्टेट्स बिल पेंडिंग पड़े हुए हैं जिसमें से एक केरल का है जो 1997 से लम्बित है, 13 वेस्ट बंगाल के हैं, 19 तमिलनाडु के हैं, 7 कर्नाटक के हैं और 6 ईच फ़ार्म आसाम, महाराष्ट्र एण्ड गोआ के हैं। इनके बिल पेंडिंग हैं। इनके लिए कोई रास्ता निकाला जाना चाहिए, कोई प्रोसीजर अपनाया जाना चाहिए जिससे इस काम में जल्दी हो सके। मैं यह भी कहना चाहता हूँ कि केन्द्र सरकार कंकरेंट लिस्ट को छोटा करती जा रही है। राज्यों के पास भी अधिकार रहने चाहिए। इसलिए कंकरेंट लिस्ट से कोई राज्य कानून बनाता है तो उसको सीधे ही पास कर देना चाहिए, उसके लिए असेंट देने की जरूरत नहीं होनी चाहिए। अगर वह कानून गैर-कानूनी होगा तो सुप्रीम कोर्ट उसको रद्द कर सकता है, अल्टायारी घोषित कर सकता है। स्पेशल केसेज में अगर कोई विद्रोह करता है, अलग होकर देश के टुकड़े करना चाहता है तो उसमें तो केन्द्र की तुरन्त हस्तक्षेप करना चाहिए। इसमें कोई दो राय नहीं हो सकती क्योंकि अब हमारे देश में कुछ लोग ऐसे भी जन्म लेने लगे हैं जो बंटवारे की बात करते हैं। उसके लिए तो सेफगार्ड रहना चाहिए। लेकिन जहां तक बैंक डिपोजिट और क्रेडिट के रेक्षियों का सवाल है उसके बारे में कुछ नहीं कहा गया है। यह अत्यन्त चिन्तनीय बात है कि पिछड़े राज्यों के बक डिपोजिट उन्नत राज्यों को दिये जा रहे हैं। वित्तीय संस्थानों के लिए जाने वाले ऋण के संबंध में भी कुछ नहीं कहा गया है और पर कैपिटल प्लान आउट ले जो बैकवर्ड स्टेट्स का बहुत कम है और डेवलपड स्टेट्स का 50 परसेंट ज्यादा है, उसके बारे में भी कुछ नहीं कहा गया है। राज्यों को रेडियो और टेलीविजन में भी अधिकार दिया जाय था नहीं, इस पर काफी दिनों से चर्चा हो रही है और कई कमीशनो ने इस संबंध में सिफारिशें की हैं कि राज्यों को दूसरा चैनल मिले इसके बारे में भी कुछ कहने में सरकारिया कमीशन फेल रहा है। यह कहना उचित नहीं है कि राज्य सरकारों को अगर रेडियो और टेलीविजन पर अधिकार दे दिया जाय तो सब कुछ विधिवत हो जाएगा देश बर्बाद हो जाएगा। यह कहना भी उचित

नहीं हैं कि सिर्फ केन्द्र ही देश को एक रख सकता है। राज्यों का भी रेडियो, टी. वी. प्रसारण का अधिकार होना चाहिए।

दूसरा बर्निंग इसू यह है कि केन्द्र राज्यों की योजनाओं की संवर्धन देने में देर करता है। इस बारे में अगर कोई सुझाव दिया जाता है तो उसका कोई असर नहीं होता है क्योंकि केन्द्र सरकार सुझावों से तो इम्प्यून हो गई है। इसलिए जब तक कानून की व्यवस्था नहीं होगी, यह मानने वाली नहीं है। इसलिए भी कोई प्रावधान होना चाहिए। इसके अलावा नेचरल क्लेमिटी में जो डेमेज हो जाता है उसमें प्रधान मंत्री वहाँ जाकर कुछ सौ करोड़ रुपये दे देते हैं किसी को कम देते हैं और किसी को ज्यादा देते हैं उसकी हम लोग आलोचना करते हैं और बार-बार यह कहना अच्छा भी नहीं लगता है। बिहार में पिछले साल भयंकर बाढ़ आई जिसमें 10 लाख से अधिक मकान गिर गये बर्बाद हो गये। इसी प्रकार से भूकम्प में भी हुआ। लेकिन वहाँ पर जितनी सहायता देनी चाहिए थी उतनी नहीं दी गई लेकिन जो राज्य हथियार लेकर खड़े हो जाते हैं उनको आप दे देते हैं। इसलिए कोई इंडिपेंडेंट मशीनरी टू इन्वैजामिन दी डेमेज इन नेचरल क्लेमिटीज एरियाज, होना चाहिए, इसमें भी यह कमीशन फेल रहा है। दूसरी कंट्रोवर्सी का विषय जो रहा है वह आल इंडिया सर्विसेज के बारे में रहा है कि स्टेट गवर्नमेंट ऐक्शन ले या न ले। यह बात ठीक है जो हमारी सेंट्रल सर्विसेज के हैं उनको पहले से गारंटी दी गई है। लेकिन व राज्य के मातहत काम करते हैं और डिसिप्लिनरी ऐक्शन लेना जरूरी होता है। इसको अच्छा हो कि आप इन्टर स्टेट काउंसिल को सुपुर्द कर दें। इस तरह के मामले बहुत कम होते हैं। पांच, सात, दस केसेज ही ऐसे होते हैं। अगर आप इसको सेंट्रल स्टेट्स काउंसिल को रेफर कर देते तो यह अच्छी बात होती। इस प्रकार इन मुख्य मुद्दों पर कमीशन फेल रहा है। उचित राय नहीं दे सका है। कमीशन का कोई पोलिटिकल आउटलुक नहीं था। उसका रियलिस्टिक व्यू प्वाइंट नहीं था। आज जरूरत है पोलिटिकल लीडरशिप और पोलिटिकल गाइडेंस की। अगर माइंड है तो

अप्लाई कीजिये और जो समस्या है इसका निदान कीजिये।

महोदय, मैं कुछ और बातों की ओर ध्यान आकर्षित करना चाहूंगा। श्री सुब्रह्मण्यम स्वामी नहीं हैं। मैं उनकी इस बात से सहमत नहीं हूँ कि जो यह रिपोर्ट है हम लोग रेजकट कर दें और रेजकट करके फिर 1982 में चले जायें। यह हमको अच्छा नहीं लगता। जो अच्छी बात है उसको हमें अक्सेप्ट कर लेना चाहिए। बल्कि मैं तो चाहता हूँ कि हमारे गृह मंत्री जी कुछ स्पष्ट बातों पर गवर्नमेंट का पॉजिटिव रुख लेकर सदन को बतायें कि इतनी बातें हमने अपनी तरफ से मान ली हैं और बाकी बातें हमारे विचारार्थ हैं। इससे देश में एक अच्छी क्लाइमेट पैदा होगी और लोग समझे कि आप भी अच्छी बातों पर विचार करते हैं। लेकिन लगता तो ऐसा है कि आप विचारते ही नहीं हैं और विचारों का खजाना दूसरों से लेते हैं।

अब मैं कुछ बातें जो इसमें सेंट्रल स्टेट्स रिलेशन के निदान के बारे में दी गई हैं उनका हम समर्थन करते हैं। उन्होंने कंसाइनमेंट टैक्स के लिये कानून बनाने के लिये कहा है यह बहुत दिनों से पेंडिंग पड़ा है आप इसको जल्दी कीजिये। रायल्टी रेट के बारे में कहा है कि चार साल नहीं दो साल पर रेव्यू होना चाहिए इसका भी मैं समर्थन करना चाहूंगा कि इसको जरूर कीजिये। स्टेट गवर्नमेंट को डियरनेस एलाउन्स देना पड़ता है, यह एक ऐसा आइटम है जिससे राज्य सरकारों का खजाना खाली हो जाता है। यह जो डी. ए. है यह केन्द्र सरकार का त्रियशन है। इसमें भीम और शकुनि का रिफत है। भीम खाता था और शकुनी ईज करता था केन्द्रीय सरकार मंहगाई पैदा करती है और राज्य सरकारें उसको वहन करती हैं। इसलिये यह रिलेशन है यह ज्यादा दिन चल नहीं सकता। कारपोरेट टैक्स में राज्यों को भी हिस्सा देने के बारे में कहा गया है। यह अच्छा है लेकिन इनकम टैक्स और सब्जाइज इयटी में राज्यों का हिस्सा घटाने को कहा है। पता नहीं यह क्या रेकमंडेशन करते हैं? असल चीज यह है कि राज्यों को ज्यादा से

## [श्री चतुरानन मिश्र]

ज्यादा फाइनेंसियल रिसोर्सेज दिये जाय अभी तक एक माननीय सदस्य जो कि सुप्रीम कोर्ट के जज भी रह चुके हैं, उन्होंने कहा है कि समाजवाद का मतलब होता है रोजी, रोटी और मकान। ये तीनों राज्यों के मानहूती विषय हैं तो सेंटर क्या समाजवाद करेगा सेंटर के पास रोजी, रोटी और मकान तो है ही नहीं। तीनों स्टेट के अंदर में हैं। इसलिये सेंटर क्या समाजवाद करेगा। केन्द्र तो समाजवाद के नाम से सारा राजस्व स्वयं जमा करता है। इस प्रकार से सरचार्ज के बारे में है। सरचार्ज आन इनकम टैक्स वह एक फिक्स पीरियड के लिये है। बैंक और फाइनेंसियल इंस्टीट्यूशन को राज्य सरकारों को एक साल के लिये खूला ऋण देने को कहा है। यह भी अच्छी बात है। हमारे राय साहब अभी यहां नहीं हैं, उन्होंने म्युनिस्पल बोर्ड की दयनीय स्थिति के बारे में कहा है, कमिशन ने इसकी चर्चा की है। कमीशन ने भी इस पर विचार किया है और टैक्स फ्री म्युनिस्पल बॉर्ड टु बी इश्यूड यह कहा है। हम चाहेंगे कि यह किया जाय और म्युनिस्पल बोर्डों की स्थिति को सुधारा जाय।

इसके बाद जो केन्द्र के पब्लिक अंडर-टेकिंग है वे तो मार्केट लोन ले लेते हैं। लेकिन स्टेट्स पब्लिक अंडरटेकिंग जो हैं उनको लोन ही नहीं मिलता या बहुत लिमिटेड मात्रा में मिलता है। मेरा ख्याल है कि दोनों को पैरिटी में लाना आवश्यक है। इस तरह का एक सुझाव यह भी है कि जो स्टेट बजट होता है उसका एक हिस्सा फारेन एक्सचेंज में उसके मुताबिक आप उनको दीजिये। यह भी अच्छी चीज है। इसको किया जाय। मिनेरल कंसेशन रूल्स जो हैं एम० आर० डी० के अन्दर उसके सेक्शन 30 को बदलकर जूडीशियल ट्राइब्यूनल का सुझाव भी अच्छा है। इसको भी आपको करना चाहिये।

इसके अलावा सेंट्रल असिस्टेंस जो दी जाती है जो उसका अनुपात 79:30 है उसके बारे में कहा गया है कि यह तीन चार किस्म का होना चाहिए ताकि बैकवर्ड स्टेट्स

की मदद हो सके। अभी एक माननीय सदस्य कह रहे थे कि माननीय प्रधान मंत्री जी चाहते हैं कि पावर का डिसेंट्रलाइजेशन किया जाना चाहिये। अच्छी बात है, 40 वर्ष के बाद अगर आप चाहते हैं तो जब चाहिये तभी कर दीजिए लेकिन यह कह दीजिये कि जो पुराने लोग थे वे अभी तक गड़बड़ कर रहे थे क्योंकि अभी तक उन्होंने नहीं किया था। दोनों बातें नहीं हो सकती कि पुराने लोग भी अच्छा कर रहे थे और आप भी अच्छा कर रहे हैं। दोनों बातें नहीं हो सकती हैं। कमीशन ने कहा है कि जिला परिषद् एंड म्युनिसिपैलिटीज टु बी स्ट्रेथेंड यह भी अच्छी बात है। इसी तरह से कहा है कि वेलफेयर स्कीम्स जो सेंटर शुरू कर देता है उसमें बहुत रुपया देते हैं मॉर्चिंग ग्रांट का क्वेश्चन उठता है इसको मिनिमम पर रिड्यूस किया जाए। यह अच्छी बात है। इंटरस्टेट वाटर डिस्प्यूट ट्रिब्यूनल रन ने का कहा है, यह भी अच्छी बात है। मेनडेटरी लीगल प्रोविजन टू हैव थ्री-ईयरली रिव्यू आफ यूनिवर्स कंट्रोल ओवर इंडस्ट्री, यह भी अच्छी बात है। इसके बारे में भी आप को करना चाहिये। स्टेट्युटेरी पावर अदर देन टैक्स, इतना तो खुद रिक्मेंड किया है इसका जरूर मान लेना चाहिए। इसके इलावा रिस्ट्रिक्शन आन मिसयूज आफ कमीशन आफ इन्क्वायरीज एक्ट जिसके बारे में कहा है वह भी मान लेना चाहिए। उसका अच्छा सुझाव है। राज्य सरकारों के बारे में आप यहां से कमीशन बहाल करेंगे उनके मिनिस्टर्स के बारे में उचित नहीं होगा। कोई करप्ट भी होगा तो कंट्रोलर्स में आप कर नहीं सकेंगे। इसलिए उचित बात नहीं होगी। आखिर में मैं यह कहना चाहूंगा कि कांस्टीट्यूशन में कुछ पावर का डिबिजन है जनता के जीवन में जिन चीजों का सीधा सम्पर्क है वह राज्यों सरकार के तहत आती है जैसे पीने का पानी भोजन, कपड़ा, मकान, रोड बनाना, बिजली बनाना, अस्पताल खोलना, शिक्षा आदि सभी राज्य सरकारों के पास हैं। अगर राज्य सरकारों के पास साधन नहीं होंगे तो इसको कैसे करेंगे? यही कारण है कि कुछ राज्य अभी तक अन्यंत पिछड़े हुए हैं जबकि केन्द्र लेविशली रुपये खर्च करता है। इसको इन्कार नहीं किया जा सकता। केन्द्र जितना चाहे



उतने रुपये नासिक प्रेस में छपवा सकता है लेकिन स्टेट्स को सहारा नहीं है। हमारे देश की हालत बुरी है। मैं अंत में यह कह कर के समाप्त करूंगा यह कंट्रोवर्सी उठाना बिल्कुल नाजायज है कि आप मजबूत केन्द्र चाहते हैं या मजबूत राज्य चाहते हैं। कोई ऐसा नहीं होगा जहाँ तक मैं समझता हूँ जो मजबूत केन्द्र नहीं चाहें। आज के हालात में या आगे आने वाले हालात में मैं आज के ही हालात देख कर के नहीं कहता मजबूत केन्द्र का होना निहायत जरूरी है लेकिन कांग्रेस पार्टी जो कर रही है वह मजबूत केन्द्र दरिद्र राज्य अगर सभी राज्य दरिद्र हो जाएंगे तो मजबूत केन्द्र क्या आकाश में बनेगा ? इसलिए नारा होना चाहिये मजबूत केन्द्र और उन्नत राज्य। यह नारा लेकर हम लोग काम करेंगे तो निश्चय ही हम लोग आगे बढ़ेंगे। इसलिए हम आपसे कहना चाहेंगे कि देश एक नयी पोलिटिकल दिशा मांग रहा है एक नयी डायरेक्शन मांगता है। चंद जजेज को बैठा कर इस समस्या का निदान नहीं होगा। आजादी के लिए लड़े तो हम लोग हैं और रास्ता बता देंगे यह लोग, यह नहीं होने वाला है। इसलिए राजनैतिक दिशा दीजिए और जो खामियां इस रिपोर्ट के अन्दर हैं उन्हें दूर करके मैं फिर एक बार कहूंगा कि सभी पार्टियों के लोग बैठ जाएं तथा विचार करें। देश हम लोगों को चलाना है इसको देखते हुए इसमें सुधार करके एक नया रास्ता अख्तियार करें। धन्यवाद।

**उपसभाध्यक्ष (श्री बी. सत्यनारायण रेड्डी)** श्रीमती जयन्ती नटराजन। उपस्थित नहीं हैं।

SHRI BIR BHADRA PRATAP SINGH (Uttar Pradesh): Mr. Vice-Chairman, Sir a very senior committed member like Mr. Chaturanan Mishra's argument I want to take in two parts. Firstly, he has gone one step ahead and immediately he has taken two steps backward and that is "the misfortune of the approach of his party. About his second argument, what Mr. D. P. Ray has said I think is a very solid argument but somehow or other it has escaped the terms of reference. As Mr. D. P. Ray has said, according to

article 12 of the Constitution three constituents are the major constituents which form the State and those constituents are: the Centre the State and all local or other authorities other than the State. These are the three constituents of "the State". But unfortunately though the Commission has referred to it, this was not the basic term of reference which would have been made. Otherwise the whole difficulty would arise, as according to him, who administers the welfare schemes? it is done partly by the Centre, partly by the States and partly by these who are not included in the terms of reference, as required under Art. 12 of the Constitution.

My second surprise is that there is a chapter in the Indian Constitution—Part XI—which deals with relations between the Union and the States. But nobody during the discussion in this House so far has made any reference whether the Sar-karia Commission's Report falls within the purview of Part XI of the Indian Constitution. And the way he has tried to interpret it, he has also not very clearly dwelt upon this important aspect of the matter, because I know that, being a Judge, a Judge is always a good interpreter but a Judge cannot be a good legislator and the mistake always can creep in as, for instance, in Keshvanand Bharati case, their Lordships of the Supreme Court tried to legislate by saying that there are certain essential features of the Constitution and according to them, there are other non-essential features of the Constitution. I do not agree with that because I take it that every part of the Constitution is the basic feature of the Constitution. So far as he has tried to interpret the Constitution as a Judge, he is quite right, but the moment he has deviated from interpretation of the Constitution and has taken up either interpreting the history or dwelling upon the present political situation and tried to find out and give a solution for it, he has erred very seriously. Mr. Upendra has gone out, but he catalogued it very well. But the surprise is that out of the same recommendation that part which suited him, he has picked up and the part of the same recommendation which has not suited



[Shri B/r Bhadra Pratap Singh]

him he says it is not correct and has rejected it. Such an approach of pick-and-choose in accepting and rejecting the same recommendation in part cannot be the base of any solid principles. Actually when we are analysing the Sarkaria Commission's Report, in particular reference to relationship and even in particular reference to the appointment of Governors or even in relation to the discharge of duties by the Governor, and the Centre's right to interfere, the argument must be advanced on some principles; it should not be advanced on pick-and-choose principle, as has been done by him. Where-ever it suits, it is acceptable and where it does not, it is not acceptable. That is a wrong approach.

Now I want to impress upon the learned Home Minister why Art. 12 was not kept in mind when the reference was made to the Sarkaria Commission of such important issues, because if we take it, Art. 12 has other than Centre and State aspects. Any local authority, such as Panchayat, port trust or municipality comes within the purview of the "State" as defined in Art. 12. Now every type of public authority, exercising statutory powers, whether such powers are governmental or nongovernmental or quasi-governmental and whether such authority is under the control of Government or not even though it may be engaged in carrying on some activities in the nature of trade and commerce, a Statutory Corporation such as a Road Transport Corporation having the power to issue rules, bye-laws or regulations having the force of law or power to make statutory appointments, why—as Mr. D. P. Ray has correctly said—has such a vital constituent of our Constitutional framework not formed part of the actual reference, whereas some reference has been made about it otherwise? Now the tussle, it seems is that the States should be given more powers. Then, what about these constituents, these organization under Article 12 of the Constitution What would be the relationship between the States and these bodies? You are going to determine the relationship between

the Centre and the State Governments, but you have failed to decide the relation, ship between the State Governments and these bodies which actually carry on or are more concerned with the carrying on of, welfare activities for the people who are directly concerned with these welfare activities. Now, therefore, I think that no amount of arguments advanced or even a cursory reference to these bodies by Mr. Sarkaria in his report would help. The most important constituent of our framework is being neglected. I would therefore, urge upon him that while the States are making so much noise about invasion of their rights or subversion of their rights or interference in their activities or functioning, they should also be quite prepared to concede the jurisdiction to be exercised by these bodies. And, therefore, Mr. D. P. Ray was correct.

Mr. Chaturanan Mishra, in so far as he referred to it, has said that there is a cursory reference to these bodies and, therefore, the State as a whole is not covered by the terms of reference. So it should have been, and I would urge upon him to reframe it, if he is really going to decide about it. Otherwise, I reiterate that Mr. Sarkaria, in so far as interpreting the Constitution, is quite right but he has miserably faltered in so far as he tried to suggest legislation. There, we drastically differ from him. Though he has been a Judge, I very much say this. My argument now is, why was there no serious consideration of Part XI with regard to relationship between the Union and the States as given in the whole of it?

Now there is a good deal of argument advanced about the scope of Article 356; various arguments have been advanced. A Governor holds the office during the pleasure of the President. Mr. Chaturanan Mishra said that nobody could call him a dalal or agent; he is a representative of the President of India, remaining in *the* State, discharging certain obligations as given in the Constitution. Now, he definitely enjoys two types of powers. There are certain powers which are in the nature of discretionary power vesting in him, and there are certain powers which

ho has to exercise on the aid and advice of the Council of Ministers, I have yet to find an example from the other side being ^advanced in this House in the course of their arguments that on the limited question of aid and advice there is default. Now, whatever scope of argument has been advanced, it has been advanced mostly pertaining to the scope of the power that Governor exercises, which is called discretionary in nature. So long as he is the representative of the President of India and so long as he enjoys the power and representation during the pleasure of the President of India, the authority vests in the President of India.

Likewise, the Constitution has contemplated two different types of powers even for the President of India. one is based on the aid-and-advice, and the other is his discretionary power. If you are very keen to extend the aid-and-advice power or you want to extend the scope of the aid-and-advice power in the case of the States, then, why do you want to put a restrictive meaning or limited meaning to the aid-and-advice theory in the case of the Central Government? Simply because the Government is in the hands of others? Otherwise, the extension of the principle will be the same. If in the case of the Centre exercising the power and the President accepting it, the aid-and-advice theory should be kept intact, then, the same theory you can extend to yourself. But you can not say, "Extend in the case of the States and limit in the case of the Centre." This will be a fallacious argument Mr. Upendra, therefore was not correct in picking and choosing certain recommendations of the Sarkaria Commission. I know that he has done good home work. But out of 200 he has picked up only those which are suitable to his thinking. Out of those few he has picked, he has chosen them in part only and explained them in part only. Therefore, this would be the most unprincipled approach to the very problem.

. Somebody succeeded very easily that the Sarkaria Commission has given its report, let us amend the Constitution, as if

amendment of the Constitution was not there in the Constitution. I am one man who is always opposed to frequent amendments of the Constitution because according to me the Indian Constitution is a very comprehensive piece of legislation. It has tried to deal with all situations, and in interpreting a situation there might be a mistake here and there.

The ruling parties in the States might think that the Governor has not acted justly or correctly. But there are others who think otherwise. Cases have gone to the law courts also, their discretions have been challenged in the law courts, and the law courts have found that in the exercise of that discretion the Governor was right and the challenge thrown by the Opposition party government in the State was not correct. So, because of that reasons, if we start denigrating the institution of Governor like this. I think, we are not entering into a healthy practice.

The other day there was an amendment to it. I said, "Much wider power than our Governor has, the Swedish Speaker enjoys because he can appoint anybody." In Pakistan there is a tussle. The President there is considering whether the largest party leader should be made the Prime Minister, should be invited to form the Ministry or not. But in Sweden the Speaker can ask anybody to form the government. The only overriding condition is that after a certain period of time he will have to get his majority proved on the floor of the House. That is the wise spectrum of his discretion, whereas the Governor in our Constitution does not enjoy that wide spectrum of power. Yet you bring a legislation to provide for impeachment of the Governor. Nobody in Sweden has ever said that the Speaker should be impeached because he has invited X, Y, Z to form a government.

What I mean to say is that there might have been some errors in the individual judgement, but you cannot say that for that reason the institution is bad. Somie-

[Shri Bir Bhadra Pratap Singh]

body said that it should be abolished. Then who shall represent the President? In that case every matter will have to be *idspctied* off by the President himself. So, looking at the number of States and the complex problems and the large number of discretionary powers vested with the Governor, the President is bound to have representatives. This is what the Constitution has contemplated. For every criticism, for every act of your disliking for every divergence of opinion, you cannot say there should be an amendment to the Constitution. Therefore, I would urge that this institution is thoroughly good and it is needed in the present frame of the Constitution. Since it is physically impossible for the President to exercise those powers directly, he has appointed his representative in the States. He may not be to the linking of X, Y and Z. So, that is not the ground for condemnation of the Office of the Governor himself or the person. If you don't agree, Well, you can challenge his actions. He is not immune. By a writ jurisdiction either to the High Court or to the Supreme Court you can challenge him. And there is a judicial verdict provided. But you cannot say that the institution itself is bad and superfluous and therefore, it should be abolished. Then who will perform the Constitutional functions for the day-to-day governance in the country? Therefore, think about the practical aspects of the Constitution and about the proprieties. And wherever you feel an attempt on these has been made, to restore the confidence of the other group, the Opposition, we shall ex-amy'ne it. I would request the hon. Home Minister, because our concept has been:

“निदं नितरे राखिये आंगन कुटी छवाय ।  
बिन पानी साबून करे निर्मल आप सुभाय ।”

So, we need the Opposition, but why don't you appreciate the Governor, who has to exercise discretionary powers and other powers which may also be against your will. If you don't agree with that, you can go to the court of law. It is open to you. but you cannot say for the simple reason that he does not toe your line or action or has not approved it or has

made a decision not in agreement with you, this institution should be abolished. That, I think, is not a good suggestion. I don't think a responsible judge like Mr. Sarkaria would have ever suggested or would have thought of suggesting that for avoiding divergence of opinion<sup>1</sup>, for not agreeing with your opinion, for discretionary powers, this institution should be done away with.

Moreover, when we are discussing this, there is a whole Chapter, Chapter 11, dealing with the Centre-State relationship. Why has none of the Speakers from the Opposition been able to even point out a single Constitutional amendment in this very chapter dealing with the relationship between the Centre and the States? You don't suggest a single amendment to the Chapter. Yet you say because of certain mistakes, Which according to you is a mistake, the Governor has not exercised the discretion properly of as you wish it should be according to you. So, instead of thinking on these lines, I feel you should seriously think about the relationship. Mr. Vice-Chairman, I once again repeat that the 'Whole scope' of Article 12 does not come under the terms of reference. Mr. D. P. Ray was very correct when he said that it cannot be done away with if only States of Bengal, Anahraj and Kerala feel like that. If the States are defined in the Constitution under Article 12, then you cannot for the purpose of reference take only part of it and leave the entire scope of activities that are covered by it. Actually there are agencies which actually deal with the welfare activities and they come in clash with the State Government, they may be divergent in their views with the State Governments because the State Governments try to usurp their scope of activities. So about the usurpation of powers by the Centre, you are worried very much but when you usurp their functions you are not worried. Why? I respectfully submit through you to the hon. Home Minister that he must consider other very important aspects of the matter which Mr. Ray and Mr. Mishra have referred to. Let us take a decision in accordance with the principles enshrined in our Constitution and not take decisions to

our liking or disliking. There are certain principles enshrined in our Constitution and everything in the Constitution is fundamental to me. It is the basic structure of the Constitution. You cannot suggest amendments to the Constitution in a pick-and-choose manner. Thank you.

SARDAR JAGJIT SINGH AURORA (Punjab): Mr. Vice-Chairman, Sir, as far as the Sarkaria Commission's report is concerned, I feel it is a disappointment to majority of the States and particularly to the people of Punjab. This Commission was constituted primarily at the behest of the Akali Dal's demand during its morcha in 1982 and 1983. The main recommendation of the Commission is mainly cosmetic and has not touched the main issue of making the Constitution of the government of this country really Federal. In fact, it has accepted that it can remain unitary although it has been dressed up in the garb of Federalism with a strong Centre. As you know, the Commission was constituted in July, 1983 but the work started only in February, 1984. While going through the report I found that there were three changes in the post of Secretary. The Commission's report in its introduction says that over the period of 37 years the Union has occupied most of the Concurrent field leaving little for the States and by indiscriminately making declaration in the public interest or national importance, more and more powers have been taken over by the Centre. Now this pervasive trend towards greater centralisation and power over the years has really created total unhappiness between the States and the Centre, particularly those States which are being governed by political parties other than the Congress (I). This has not only led to a certain amount of confrontation but it has naturally led to a great deal of dissatisfaction and inefficiency because of over centralisation. I think, we must realise that India is a multi-national society and there are so many units in it which have their distinct identity in language culture and religion.

SHRI BUTA SINGH: I object to this. We are not multi-national. Will you kindly

explain it? We can be multi-racial, multi-communal... (*Interruptions*) ...

SARDAR JAGJIT SINGH AURORA: All right. We can say sub-nationalism. But there are distinct communities, if that satisfies you, it is all right. I am not trying to create separate nationalism here. But there are distinct communities and to my mind, the word multinational that I used was in general terms and I am not trying to create distinction about it. We need not be unnecessarily touchy about it so long as we realise that all these communities are sub-nations whatever you may like to call them accepting the integrity of the country as their basic principle. I feel that whereas to begin with we accepted the federal concept but after the creation of Pakistan, we felt so threatened or you can say, the Pakistan Syndrome created an idea that there may be federalism but it must have a strong Centre. But the unfortunate part is that strong Centre has now become an authoritative Centre where the Centre feels that it has the authority to override the sentiments, the plans, the projections and the concept of the State Government. I would like to mention here that Dr. Ambedkar who is the father of this Constitution said, "the basic principle of federalism is that the legislative and executive authority is partitioned between the Centre and the States not by law to be made by the Centre but by the Constitution itself." I feel this is one thing that the Centre has not respected. He went on to say, "this is the principle embodied in our Constitution. There can be no mistake about it." Unfortunately, I think, the Centre has taken much note of it or forgotten what Ambedkar stressed very strongly at the time when the discussions were being carried on about this Constitution. Now, the greater autonomy for the States rests not on the so-called traditional notion of federalism or strong Centre but essentially on the fact that this alone provides an enduring basis for India's unity and integrity. Even at the risk of repeating it, I would like to stress that without strong States, there cannot be a strong Centre and in any case when the States were divided linguistically, the multi-communitarian