

ly diluted. In that case what is the point in making a special mention? Everyday everyday should get up and say I associate or disassociate myself with this or with that. Let us run the House in a proper orderly manner. Those who want to make a special mention can give it to the Chairman and the Chairman is kind enough to allow a long list. This is my experience and I am sharing it with you. (Interruptions). Now, why are you going out? Why don't you associate yourself with this, Centre-State relations? Listen to someone else also.

REPORT OF COMMISSION ON CENTRE-STATE RELATIONS

SHRI H. HANUMANTHAPPA (Karnataka): Before I start my speech on the Centre-State relations, I want to set the record straight. Yesterday Mr. Chaturanan Mishra, while speaking, quoted from the Sarkaria Commission's Report and stated that it is a certificate from the Sarkaria Commission to the Congressmen. Unfortunately, he has misquoted the whole reference and I wish to set the record straight. This is on page 15, para 1.4.18. The heading is "Political Changes" and this is what he quoted from the report. I Quote:

"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. Political life was not seen as in the day of the freedom struggle, as a sacrifice for the nation. Rather, it became a political career and a means of reaching for power and pelf in varying proportions. It was no longer the lawyer or doctor sacrificing a lucrative practice or the teacher throwing 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."

This is what he quoted and he attributed this to the Congress party and to the Congressmen. I want to correct the record that it is not attributed by the Sarkaria Commission to any one party or one group. It is attributed to the political change and to the political leaders. It includes both sides of the House.

SHRI CHATURANAN MISHRA (Bihar): You can verify the report. I also read the first sentence which you did not read. It begins with Congress.

SHRI H. HANUMANTHAPPA: I will come to that. I have read the whole thing.

THE DEPUTY CHAIRMAN: Read from the first sentence.

SHRI H. HANUMANTHAPPA: I have read out what he has quoted. I only want to correct the record. That is my purpose. He is free to draw his own inference and I am free to draw my own inference. I am free to look at it from my own angle and you are free to look at it from your own angle.

SHRI CHATURANAN MISHRA: Say that it is your interpretation. Do not say that I have quoted wrongly.

SHRI H. HANUMANTHAPPA: I am also quoting from the same paragraph and the same sentences.

Anyway Madam, I am happy that the Report on Centre-State Relations is being discussed in the Council of states. We are deeply interested in this. I have listened to the discussions very carefully yesterday. Somehow the trend is like this. Whenever certain recommendations are feasible or acceptable to us we have developed a times when they are not feasible or acceptable to us. We say, yes, and some tendency of blaming the Commission with all our adjectives and qualification. It is just like a cricket match which I was watching yesterday.

[Shri H. Hanumanthappa]

Whenever the Newzealand team shouted 'out' and if the empire did not declare it as 'out' they were disappointed. Similarly, if the recommendations of the Commission are according to their mind or wishes, they say that this Commission was not free, it was dictated by the Government, it is one-sided or two sided. The Commission in the beginning has said about its limitations and its duties.

I quote:

"The terms of reference enjoin us to examine and review the working of the existing arrangements between the Union and the States, keeping in view the socio-economic developments that have taken place and having due regard to the scheme and framework of the Constitution designed to protect the independence and ensure the unity and integrity of the country."

Naturally when they go by these terms of reference and the consideration of keeping this country's unity and integrity and also the present working system, there may be many points on which they have to comment in support and adversely also sometimes

Madam, this discussion is very important today. The Commission has observed at one place, that even after 40 years of Independence, there are forces—actually the Commission says, there are governments—and one State Government has observed that:

"With the reorganisation of the States on a linguistic basis, these are no longer mere administrative sub-divisions of the country with their boundaries for the most part a historical legacy. These are now deliberately reorganised homelands of different linguistic-cultural groups".

And it does not stop at this point. It says:

"These groups are, in fact, growing into distinct nationalities".

So still certain State Governments have got this opinion. Madam, formation of linguistic States was a historical necessity; just to unite the people speaking one language for administrative facilities so that they can communicate with their regional government on their problems and get them redressed. But unfortunately even now, after 40 years of Independence, there are still certain State Governments—do not want to name the Governments, I do not want to go into details, but the Commission has observed that one State Government has said that "these groups are, in fact, growing into distinct nationalities". So here the national fabric is under attack. So it is very much right and it is ripe that we should discuss this threadbare in the backgrounds of such opinions emerging in certain States and we should see that the national fabric maintained.

Madam, I quote from the report:

"It is the Union of India that is the basis of our nationality. It is in that Union that our hopes for the future are centred. The States are but the limbs of the Union, and while we recognise that limbs must be healthy and strong and any element of weakness in them should be eradicated, it is the strength and the stability of the Union and its capacity to develop and evolve that should be the governing consideration of all changes in the country".

This is the States Reorganisation Commission's opinion. It visualised that these things may happen in the coming years. Now I go further and state what the Commission has said:

"Notwithstanding the common cultural heritage, without political cohesion, the country would disintegrate under the pressure of fissiparous forces. As aptly observed by an eminent jurist, the founding

fathers were painfully conscious that the feeling of Indian nationhood was still in the making and required to be carefully nurtured."

This discussion is centered mainly on the legislative powers which are divided into three lists—the State List, the Central List and the Concurrent List. Much has been discussed of the Concurrent List. Actually the Concurrent List is a media wherein Government of India, wherever it is necessary, can legislate on behalf of the State as well as the entire country. We have in the past legislated on education, taken it into Concurrent List.

That has not harmed. Somehow, I don't know, friends from the States ruled by the opposition parties feel that the Centre is encroaching and taking away the powers of those State Governments, cutting them short. Recently an amendment was introduced by the Human Resource Development Minister about sports to be taken into the Concurrent List. Madam, you will remember that just one week before, we discussed the performance of our country at Seoul and a lot of criticism was levelled against the States. It was right. Prof. Lakshmananna objected to the introduction of that amendment. "The ground is ours, the boys are ours, how can you legislate?" When you raise the issue that the ground is yours, the field is yours, then why do you blame the Central Government for the performance in Seoul, if that coordination is not there? Where the State Governments themselves are burdened with the local problems, when they have not been able to spare sufficient resources then the Government of India thought it fit that it could be taken into the Concurrent List and invest for the development of sports in the States. Only on such items is the Concurrent List operated by the Centre.

Similarly, there is irrigation. There are inter-State rivers and where inter-State problems are occurring when the State Governments are not in a position to solve them, the Government of India wants to legislate, wants to take the powers to the Concurrent List. Only yesterday we discussed about the national power grid. Every State was questioning why there is delay in forming the national grid. There we did not say that we want to be separate. We wanted a national grid. Wherever there are lacunae, wherever there are deficiencies, just to make them good the Government of India wants to step in and, as a Big Brother, as a friend, wants to help the State Governments in their difficulties and that is how this Concurrent List is being operated. If there are any differences between the States and the Centre, they are still open for a discussion. As the Home Minister, while moving the Motion, has said, the Government of India is with an open mind and it is prepared to take the opinion of both sides.

Madam, the next is financial powers. I am also one with those who want that the Divisible Pool should be extended and the States should get assistance but, at the same time, States are not just grant-in-aid institutions. That also we should know. I come from Karnataka. Nowadays, the Karnataka Government time and again blames the Central Government for its "stepmotherly treatment." But whatever resources they could mobilize, they spend them on populist programmes and whenever they could not mobilize resources, whenever they have some deficiencies or whenever they are unable to manage their own financial resources, then they look to the Centre and start blaming the Centre. This has been the attitude of the State Governments. I do not say this Government or that Government, but Governments which cannot manage their own financial resources well.

[Shri H. Hanumanthappa]

Apart from this the State Governments forget that the Government of India is sharing a large portion of finances through NREP, RLEGP, IRDP, fertilizer subsidy food subsidy, flood and drought assistance, plan assistance and other Central sponsored schemes in every State. It is not that the Government of India takes away a larger chunk of the resources and makes the States weak. The Government of India is also contributing and participating in every State in the form of Central assistance.

Madam, much has been said about the role the Governors play, and they were blamed for dismissal of Governments under article 356 President's rule and reports of Governors. It is easy to point an accusing finger at the ruling party at every level. For some time my Opposition friends were also in the ruling party at the Centre.

SHRI DHARANIDHAR BASUMATARI (Assam): Only for two-and-a-half years!

SHRI H. HANUMANTHAPPA: Even during those two-and-a-half years, if the ratio is calculated of the number of Governments that they dismissed and the number of Governments that the Congress dismissed in 38 years, the ratio will be much more on the Opposition side. Mr. Satyanarayan Reddy and other friends were shouting about dismissal of the N. T. Rama Rao's Government in Andhra Pradesh.

Of course, the Telugu Desam was not born at that time. I do not want to accuse them. But my own Government in Karnataka, which had full majority, was dismissed by the Janata Government. When Mr. Devraj Urs was enjoying majority in the Assembly without any reason, based on the report of the then Governor, that Government was dismissed. I do not know why. This is high-handed-

ness. They have forgotten. It is almost 10 years old (*Interruptions*.)

So my point is, I am not holding brief for anybody. My point is that there are chances to discuss.

THE DEPUTY CHAIRMAN: Mr Hanumanthappa, kindly address the Chair, not across the House. I am very attentive.

SHRI H. HANUMANTHAPPA: Sorry Madam. (*Interruptions*.)

THE DEPUTY CHAIRMAN: You don't answer.

SHRI H. HANUMANTHAPPA: Even if the Congress Government had dismissed certain governments, that was under constitutional provisions. It is under the Constitution that here is a provision to dismiss a State Government.

It is easy to point out the accusing finger towards others. This is like saying: "Do what I say and don't do what I do." You should also streamline yourself before advising or addressing others. That is my request.

If there are improvements to be implemented in the procedure, in the working of either selection, posting or working of the institution of Governor, it is welcome. These discussions should be constructive rather than only pointing the accusing finger at the deficiencies.

Madam, the Planning Commission or the National Development Council is the creation of the States and the Centre. The Planning Commission is a creation of the Constitution Governments and the Centre. All the State Governments are consulted. Their memoranda are received. On the National Development Council sent, and points are discussed. But, unfortunately, what has happened is that everytime the States ruled by the Opposition parties here have all the State Government are repre-

developed a tendency just to accuse the Centre without looking at what they are doing in their own States because they cannot come to the Centre. (Interruptions).

Even the Sarkaria Commission has observed:

"The Congress Party has evolved over the years a policy of rapid economic development which these leaders put into action soon after coming into the Government. It has held for a long time the reins of power both at the Union and in the States. This lent a great measure of stability to the nation."

We cannot forget this. These are historical facts.

Madam there are only one or two points. I entirely agree with my friends from the Opposition on the power and the freedom that the bureaucracy enjoys. One may be the highest officer in the administration but one is subordinate to the elected representatives. Unfortunately, this feeling is not seen in our administration. Parliament Members or politicians go out every five years, and solving 10 lakhs or 20 lakhs, putting their manifesto, policies, programmes they come back. The bureaucrat somehow or other feels, "I enter into the Government for 30 years. My seat is safe. Even if there is a punishment, it is only a transfer. There also I enjoy the facilities of phone fan, car, every thing. So, this attitude should go. Even the bureaucracy owes a certain responsibility to the Government, to the people, to democracy. So, the importance or the powers that are enjoyed should be watched, and they should not be allowed to be misused by the all-India service officers.

I join with my friend who said yesterday that there should be a review by the Ministry periodically. Whoever goes out of the way or encroaches or abuses his power must be dealt with properly.

You have already given me a notice to stop. So, without going further, I would only thank the Government for bringing this subject for discussion wherein everyday we see differences arising between States and the Centre and this Minister talking about the State Government and the State Government accusing the Centre. So, let us have a fruitful discussion and evolve certain procedures wherein a harmonious and friendly attitude is maintained between the States and the Centre.

SHRI LAL K. ADVANI (Madhya Pradesh): Perhaps after a long time we are having an issue discussed for two days. Apart from the President's address or the Budget, it is rarely that one particular issue has been debated by this House for two days. It is appropriate that we have decided to devote this much time to the Report on Centre-State relations, though I think it could have been more apt if we had discussed it last year immediately after it was presented. This Commission was appointed in 1983 and it gave its report to the Government in October 1987. And if in the last winter session itself we had discussed this and by now decisions had been taken by the Government and implemented, it would have been better. But first of all the Report itself was released to the people only in January 1988. It was not released immediately after getting it. We hoped that along with the release of the Report, the Government would also finalise its own decisions. I have an apprehension—I would be happy if I am proved wrong—that this debate also would be to talk this out. There have been recommendations on very many aspects which have been there for a long time. Even the Administrative Reforms Commission was back in 1960 had recommended creation of the Inter-State Council under Article 263. And there never has been any disagreement on this at least so far as this side is concerned. We have been unani-

[Shri Lal K. Advani]

mous that for normalising and putting the Centre-State relations on an even keel, particularly after 1967, when for the first time several non-Congress Governments came into office it is imperative that this particular provision should be invoked. This particular provision was conceived by the Constitution-makers for a situation of that kind. Only this morning there was a special mention and that special mention pertained to the dispute between two States. It was a scene to watch how members belonging to the same party felt so strongly about their own particular point of view. This episode of this morning only underscores the need for an utmost caution for the Government at the Centre, which has been armed with enormous powers by our Constitution, when it is dealing with State Governments, which do not belong to the same party. When even those belonging to the same party can react in the same manner as they reacted this morning, one can imagine how much complicated the problem becomes when the Central Government does not exercise due caution and restraint in dealing with Governments which do not belong to the same party.

Madam, before I deal with the nuts and bolts of Centre-State 1 P.M. relations, and that too I can deal very briefly because it

is impossible to do justice to a volume of this kind and covering so many different issues in a brief speech. I would like to deal with the broad perspectives that ought to guide Centre-State relations. Now, I noticed that the questionnaire itself, circulated by the Sarkaria Commission, posed a key question to all the respondents as to what they think about the basic structure of the Constitution. Do they think that the problems in this field of Centre-State relationships have arisen because of any basic flaws in the Constitution or do they think that it is because of the manner in which it has worked these problems

have arisen? It was a loaded question obviously. But I for one have been happy to find out that a majority of the respondents said that we do not quarrel with the basic structure of the Constitution. The basic structure of the Constitution is quite all right but the manner in which the Constitution has been worked, it is that manner of working and implementation that created problems. I was particularly happy to find that the Government headed by the Telugu Desam Party (TDP) and which very often is made the butt of the attack by the ruling party Members on all such issues relating to Centre-State relations and all that, that Government also in the official memorandum it gave to the Sarkaria Commission said in reply to this question "that we do not think that there is anything wrong with the basic structure of the Constitution". By and large it is sound though they have advocated amendments in the Constitution just as my party has recommended amendments in the Constitution, changing the Constitution or amending the Constitution, certain provisions of the Constitution, some of them even radically. There is nothing wrong in that but the basic structure is sound. This reply was given by the TDP Government also which is supposed to be one of the Governments promoting regional chauvinism and what not and I do not know what kind of epithets are used for them. Madam, it may be happy, it may be glad that they also do not quarrel with the basic structure of the Constitution. Of course, I have gone through the memorandum also and I have noticed that there are sections of the population, sections of opinion, political opinion in the country who think that the Constitution-makers went wrong when they framed this Constitution and it ought to have been a federal Constitution in the classical sense, in the truest sense of the word as it is America, as it is in several other countries of the world and the Cons-

Constituent Assembly went wrong. It should not have done it. I would identify to permanent dissenters in this regard. Our friends from the Marxist party, the CPM said that the Constituent Assembly went wrong and it is not right to say that the Constitution is all right, it is only the working that is wrong. I do not want to quote the whole thing. They have very clearly said... (Interruptions). Please, let me complete. I am merely putting the whole.

THE DEPUTY CHAIRMAN. Mr. Basumatari, don't interrupt. Let him make his point. Your name is there and then you can make your point and you can reply.

SHRI LAL K. ADVANI: Madam, not only did they disagree with the thinking of the Constitution but I was sorry to note that they have gone to the length of attributing motives. The Marxist party memorandum says, I quote:

"The Constitution that was framed after independence reflected the needs of the capitalist path of development which required a unified single homogeneous market. It reflected the needs of the big capitalists allied with the landlords who considered the demand of democracy, State autonomy or equality of languages as obstacles to their economic domination and political power."

I have mentioned this to express my total disagreement. This kind of analysis I totally disagree with and I think that when the Constitution-makers decided not to go in for a classical federation and to provide the federation of the present format in which the format is federal but the essential content can be described as unitary or with a unitary bias, the motivations were noble, the motivations were patriotic, the motivations were the unity of the country. It was not gross commercialism of this kind or the fact that the Constituent As-

sembly comprised representatives of the vested interests and the capitalists and what not. I do not subscribe to that view. In fact, I have gone through the Constituent Assembly debates in which there was a formal discussion on whether it should be described as a federation of States or a Union of States. Amendment was moved that it should be called a federation and the amendment was rejected formally. That it was rejected was not casual. Yesterday, our friend, Mr. Jagjit Singh Aurore did refer to Dr. Ambedkar and related out to the Government that you are ignoring the basic concepts of the framers of the Constitution and in this particular context, the explanation that Dr. Ambedkar gave, why he was not willing to accept the word federation and why he insisted on the word Union of States is very significant. Dr. Ambedkar said, 'though the country and the people may be divided into different States for convenience of administration, the States structure, the format is essentially for the purposes of administration'. It is a huge country. How can it be run from Delhi and it certainly cannot be run from Race Course road? It has to be divided into provinces which are autonomous to that extent, which is conferred by the Constitution. The country is one integral whole. This is the basic commitment. Its people are a single people living under a single imperium, derived from a single source. Every word has been carefully chosen. The Americans had to wage a civil war to establish that the States have no right to secession and that their federation was indestructible. The drafting committee thought that it was better to make it clear at the outset than to leave it to speculation or to dispute. The use of the word Union is intended to underline the fact that India is an indestructible union of destructible units. No other Constitution of the world which can be described as a federation can ever

[Shri Lal K. Advani]

have article 3 that we have. Though I am of the view now that article 3 also should be slightly amended so as to ensure that change in the boundaries of the States is also amendment of the Constitution. Today, they are not even an amendment of the Constitution. Today, any State can be wiped out completely by a simple majority of the two Houses. No two-thirds majority is needed. This is article 3. I do not favour that I think it is too important a measure to be left to a simple majority and therefore it should be done by two-thirds majority. But the basic concept is that India is one nation, Indians are one people. They are not a multinational State. Yesterday, I was going through the debate when my friend, Mr. Jagjit Singh Aurora referred to a multinational State, there was an objection from the Treasury Bench and he said that you may use whatever word you want to use; you may call it sub-nationalism, you may call it by some other way but it should be accepted that there are different sections of the population, who have their own different languages, their own different religions. Yes, true, but at the same time, I would like to draw his attention that once you accept this concept of a multinational State or have it even in your mind, the consequence is what has been said by the Punjab Government. In the Punjab Government memorandum which was at that time being run by the Akali Dal, it was said and the sum and substance was that after the reorganisation of the States on linguistic basis, the State has ceased to be just an administrative unit and I quote after that.

"They are now deliberately reorganised homelands of different linguistic cultural groups."

It is this kind of homeland theory that creates problems. I would like, at the very outset, to emphasise this perspective. After all why was the country divided in 1947? The coun-

try was divided because of Mohammed Ali Jinnah's two-nation theory. Even after we reconciled with division, we did not accept that theory. And, how a country, a people, a nation, which did not reconcile even with a two-nation theory can reconcile with a multinational theory? We cannot. We cannot reconcile with it. Therefore, from the outset I would like to say that the basic perspective which conditioned the thinking of the Constituent Assembly, of the Constitution-makers, was sound. There is no quarrel with it. At least I do not have any quarrel with it. But, Dr. Ambedkar said that after all, Article 356 could be abused. He said that Article 356 could be abused. He said, "I hope this will remain a dead letter." This was his hope. (*Time-bell rings*). So soon?

THE DEPUTY CHAIRMAN: Sixteen minutes.

SHRI LAL K. ADVANI: I am really sorry. I was...

THE DEPUTY CHAIRMAN: You can speak for some more time if you have some points.

SHRI LAL K. ADVANI: I am really sorry.

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): We have time till 1.30 p.m.

THE DEPUTY CHAIRMAN: The House will run till 1.30 p.m. but Mr. Advani will not speak. There are many other Members also to speak.

SHRI LAL K. ADVANI: Madam, I go straight ahead because it is not possible...

THE DEPUTY CHAIRMAN: I did not want to disturb you. That is why I did not ring the bell earlier.

SHRI LAL K. ADVANI: I would heed my limitations.

I would like to say, apart from what you do later on, right now, if an announcement is made at the end of this debate that the Government accept the recommendation of the Sankaria Commission to set up an

inter-State council under Article 263, that, in itself, would be a major step forward. There is unanimity on this. It is only you who are the road-block. "You" means the Government. We know there has been unanimity that the voting age should be lowered. That unanimity has been there since more than one decade. The only road-block has been the ruling party. The moment that road-block is removed, the voting age is going to be lowered. Similarly, let an inter-State council, which this Sarkaria Commission has chosen to describe as an inter-Governmental Council, be formed. I have no objection to that term. Let an inter-Governmental council be created.

THE MINISTER OF HOME AFFAIRS (SHRI BUTA SINGH): There is no unanimity on this.

SHRI LAL K. ADVANI: As far as I am concerned, there may differences on the nuances the composition and the scope. But so far as the basic concept is concerned there is no difference. I would go still further. I would say that Article 263 should make it obligatory—today it is not obligatory—for the Government to set up a council. I would regard it necessary to amend the Constitution and make it mandatory for the Government, whichever Government be in power, to create this inter-State council.

Another important matter is the role of Governor. The role of Governor has created a lot of problems. It has created in the past and it continues to create even today, whether it is our hon. Chairman here or the Governor who preceded him or the Governor who followed him. In Andhra Pradesh, every day, there is news about the Governor. At no point of time was it conceived that the Governor would be anything more than a Constitutional head, except in certain very limited circumstances. For example, when he has to choose a leader, to decide who has

got the majority, at that time, there can be no consultation with the Council of Ministers. Or, when he is reporting to the Central Government about the break-down of the Constitutional machinery in the State, certainly that report cannot be on the basis of the advice given to him by the Council of Ministers. But at no time was it conceived that even in the matter of appointment of Lok Ayukt the Governor would be putting all kinds of hurdles and obstacles in the way, trying to hold it up on this ground or that ground. This was never the conception of the Governor at any time. So much so that right through the conception was even when the same party is there, the Governor acceptable to the State should be appointed. I have with me a statement made by no less a person than Pandit Nehru himself who emphasised this, that it should be with the consent of the State. It has been quoted; he said in the Constituent Assembly on the post of Governor that it would be infinitely better if he was not so intimately connected with the local politics of the province and "Would it not be better to have a more detached figure?"—obviously a figure that must be acceptable to the Government of the province. And after that every single body had recommended that the Governor should be one who is acceptable to the Government of the State. Yet, even while the Commission's report is lying with us, we keep appointing Governors even without consulting the States. And there is a very pertinent remark made by the Sarkaria Commission which says that "the general practice as far as we have been able to ascertain seems to be that the Union Government merely informs the Chief Minister that a certain person is being appointed as Governor of the State. Sometimes even such prior intimation is not given. It is well established that 'consultation' in the context means ascertainment of the views of the person consulted as to the suitability of the person propos-

[Shri Lal K. Advani]

ed for the appointment. A mere intimation that a certain person is being appointed as Governor is not 'consultation', as it reduces it to an empty formality." 'Empty formality' is the phrase that has been used by the Sarkaria Commission which ordinarily does not use strong phrases at all. It is one of the few occasions where the Sarkaria Commission had said that Article 155 should be amended so as to make it obligatory for the Government to consult the concerned State Government—one of the few things; otherwise, the whole report, by and large, is a conservative report, is a cautious report. I do not propose to quarrel with it because I am afraid that even this cautious and conservative approach is not going to be accepted by the Government. They are already defying it even while it is there. (*Time-bell rings*)

I have very many other points to make. But broadly, I would say there is a clear case for devolution of greater financial powers in favour of the States, a clear case. And it is quite good that corporation tax has been brought into the divisible pool. But much more needs to be done along with bringing corporation tax into the divisible pool. They say surcharge may be added. In fact, surcharge on income-tax should also be brought into the divisible pool. The present resources of the States are so inelastic, so limited, so meagre, that perhaps when the Constitution was framed it was not quite well conceived how great would be the burden that will come on the States when the demands of development arise. And today it is impossible for the States to meet these demands.

One last point, relating to Emergency Powers. There is a chapter on Emergency Powers in the Sarkaria Commission Report, a full chapter, and that entire chapter deals principally with Article 356 of the Constitution. If the Fifty-ninth Amend-

ment had been passed earlier, then perhaps the entire chapter would have been devoted to the Fifty-ninth Amendment. What has been stated in the Sarkaria Commission Report is that the Constitution (Thirty-eighth Amendment), briefly stated has endorsed the Forty-fourth Amendment and that after the Forty-fourth Amendment has been passed, "... considering the adequacy of the safeguards provided by it, apprehensions of its possible misuse are no longer rife. In all the evidence before us, no concern has been expressed about the structure of Article 352 as it now stands." But the Fifty-ninth Amendment has completely undone the Forty-fourth Amendment and the result is that today there are apprehensions in the minds of all of us, in the entire country, that what little was achieved by the Forty-fourth Amendment has been wiped out and so these Emergency Powers can be abused many times again in a much more dangerous manner than it was done in 1975.

So far as the recommendations in respect of Governor, in respect of article 356, in respect of Corporation Tax etc. are concerned, I agree with most of the recommendations. I wish that the Sarkaria Commission had said nothing about the question of autonomy, and to say that it is premature to confer autonomy on the media like AIR and Doordarshan in the context in which the AIR and Doordarshan are being abused today, this kind of a statement of prematurity sounds no different from the British reply, "India is not yet ready for freedom and so, it would be premature to give freedom to India and, therefore, we cannot do it." Nothing different from this. This, I think, is extremely imperative. Why it commented upon this, I do not know, because it is not as if the dispute is between the Centre and the States, but the dispute is between the Government and the people, the people would like autonomy to be conferred on these two particular things.

Lastly, Madam, concluding I would say that the Sarkaria Commission also has said that the problem arises from overcentralization or what it calls undue centralization. A very pertinent phrase it has used and it has said, "Undue centralization leads to blood pressure at the Centre and anaemia at the periphery." It says, "blood pressure at the Centre and anaemia at the periphery." This is Sarkaria Commission's diagnosis of the maladies of the Centre-State relations.

THE DEPUTY CHAIRMAN: One of the Members of the Commission might be a doctor.

SHRI LAL K. ADVANI: And it has said "...and the inevitable result is morbidity and inefficiency." There cannot be a more scathing comment than this particular comment and I would like to appeal to the Government to accept all these recommendations which go in favour of the States without any hesitation, the principal one being the setting up of the Inter-State Council and, secondly, emphasising as I have done, even though I am in the Opposition and some of my colleagues might not agree with me, I say that so far as the basic perspective is concerned of the Constitution, that is sound and there is no need for any amendment of the basic structure of the Constitution. Thank you, Madam.

SHRI BHASKAR ANNAJI MAS-ODKAR (Maharashtra): Madam Deputy Chairman, I rise to welcome the debate raised for considering the Report of the Sarkaria Commission.

Madam this debate in my view, is not merely dialectical, nor is it dialectical as has been suggested by some. But it is dynamic in its essence. It is not an incipient exercise, but it is inspiring in its effect. As far as I think, this debate is going to touch upon matters which are very vital and absolutely organic to the maintenance of our Constitutional struc-

ture and the maintenance of our Constitutional policy.

Therefore, Madam, I have a fear-
ing that we are face to face with our own roots, with our own history, and with the very existence of our Constitution and the Constitutional polity. So, let us be a little slow while considering the criticism that is being levelled by the Opposition or by the ruling party.

I am particularly happy over the statement of the learned Home Minister, who has made the position of the Government very clear, notwithstanding the apprehension of my honourable friend, Shri Advani, that the Government has an open mind on this issue and that should assure all of us that the Government is willing to take all those measures which are necessary to further the basic principles on which Mr. Advani so emphatically relied.

Madam, I have some comments to before I go to the Report itself, and that arises because of some of the overtones of criticism voiced in this House. Firstly, it is often said in this House that we are a federal structure. There is an aggression on federalism. Madam, this is a proposition which I debate, which I seriously contest. As far as classic federalism is concerned, as Mr. Advani rightly pointed out, we are not a polity of that kind. The Founding Fathers have erected a structure which is a unique mix and for which need not have a label drawn from the western experience. What we have proposed is a unified country under the legal and juristic name "Union of India". This House would be aware and would recall what Pandit Nehru observed on the night between 14th and 18th of August 1947. He said: "While the world sleeps, India awakes". What is that India that Pandit Nehru referred to? That is ultimately reflected in the resounding words of the Constitution and the

[Shri Bhaskar Annaaji Masodkar]

Preamble sets out to say, "We the People of India". So, the source of our power, source of our constituent power, is one unit termed and defined by "We the People of India". I would be happy if the attention of all those who are participating in this debate is focussed on these words. When we debate the Constitution, I believe that we must rise above what we call the parochial and factional or even State-line considerations. We must go to that structure which was conceived within the parameters of the Constitution. In spite of my understanding the speech of Mr. Advani, I really failed to understand why he takes objection to Article 3. There is some discussion in this report as far as Article 3 is concerned. But if you believe in one unit, one unity as the country, Article 3 is just a consequence. I do not think that after four decades of the working of the Constitution. Article 3 has been, in any way, misused. In fact, looking to the aspirations of the people, looking to the problems several parts of this country faced, the Parliament has come out with redrawing of the map and giving political features or what you call the States reorganisation. This has been done after the deliberation and over all considerations.

Madam Deputy Chairman, before I touch the report, I must make it clear why I think that it is a misnomer to call in aid the principles of classic federalism while debating this issue. There are many juristic and legalistic pronouncements on this. It is not necessary to quote all of them. I think it enough to show what authoritatively the Supreme Court of India has said. Some of the Members may say that this is too legalistic. But this is what the Constitution is. Ultimately how the Constitution is interpreted, is treated is to be the Constitution. We may have a point of view. But the highest court in the country examining the structure of this Constitution and speaking through Chief jus-

tice Beg in the case of Rajasthan versus Union of India, which is reported in 1978—I SCR at page 34... the Learned Chief Justice, after examining the entire gamut of the situation—al observed, and I am quoting:

"In a sense, therefore, the Indian Union is federal but the extent of federalism in it is largely watered down by the needs of progress and development of a country which has to be nationally integrated, politically and economically co-ordinated, and socially, intellectually and spiritually uplifted."

These are the basic consideration, basic fundamentals on the basis of which we drew the political map of this country. It will come to your notice, as you see the Constitution, that there are some primary features on which the Founding Fathers laid all stress. And one of those features as you can see is the mode of formation of the States—as rightly pointed out as indestructible Union with destructible States—the subordinate position of the State, earning out, the constituent power that vests in the Union and the Union Legislature without any such power to the States. And further the administration of justice... Madam I am aware, you are looking at the clock.

SHRI GHULAM RASOOL MATTO:
You continue after lunch.

THE DEPUTY CHAIRMAN: Let him complete his sentence because he would not have the same chain of thought.

SHRI BHASKAR ANNAJI MASODKAR: The administration of justice, Madam, is not a divided function. In my view, although there is division of powers, there is a clear-cut provision in the Constitution of control by the Union of the States. States are not controlling the Union. It is the Union that controls the States. Madam, now you can look to the clock. I want 5 to 10 minutes.

THE DEPUTY CHAIRMAN. To conclude your speech?

SHRI BHASKAR ANNAJI MASOD. KAR: No, no. After lunch, if you permit me....

SHRI GHULAM RASOOL MATTO: You continue after lunch.

THE DEPUTY CHAIRMAN: You continue your speech after lunch. Now the House stands adjourned for lunch and we will meet at 2.30 p.m.

The House then adjourned for lunch at thirty-three minutes past one of the clock.

The House reassembled after lunch at thirty-two minutes past two of the clock. [The Deputy Chairman in the Chair.]

SUPPLEMENTARY DEMANDS FOR GRANTS (TAMIL NADU) 1988-89.

THE MINISTER OF STATE IN THE DEPARTMENT OF EXPENDITURE IN THE MINISTRY OF FINANCE (SHRI B. K. GADHVI): Madam, I beg to lay on the Table a statement (in English and Hindi) showing the Supplementary Demands for Grants for Expenditure of the Government of Tamil Nadu for the year 1988-89 (November-December, 1988).

REPORT OF COMMISSION ON CENTRE-STATE RELATIONS—Contd.

SHRI BHASKAR ANNAJI MASOD. KAR: Madam, I was trying to make a point that the Indian Constitution has to be approached as a dynamic and living document and I tried to submit that the position of the States and the position of the Union is distinctly carved and any interplay between them shows that they are not equal nor do they stand on the same footing. It is not merely a legalistic or juristic approach. It is a matter that arises out of necessity. This House will be interested to know that in all the theories of federalism some tests are laid down and one of the tests which is said to be the basic test to understand is to go back to the

history and to find out as Prof. Saveri in his treatise on Modern Federalism says, is to inquire whether a federal situation was existing before the Union adopted the federal Constitution. So our inquiry, our point of view, will have to be moderated and will have to be adopted by seeing to the circumstances then existing when we became free, and its reflection in the constitutional document which we adopted, as the people of India. In essence I submit we have adopted federal means to reach unitary goal.

I have already made the submission that there is magic, the national magic in the words, what we call, the people of India. Right from Kashmir to Kanya Kumari and from Assam or the East to the West, in the length and breadth of this great noble country reside only one people. You may be having different streams of cultures, having different religiosity, different stains, economic differences but the basic unity and integrity lies in the words "people of India". So, my humble submission is that before we tinkle with the Constitution and that too in a very casual and easy way, we must understand the basic spirit of this Constitution which you have adopted and have worked out for the last four decades. It is an open question, as far as this House is concerned and Parliament of this country is concerned, whether we want to revise the Constitutional structure. With all wisdom and foresight, the founding fathers have left to this particular august body, not to the States, not to the State Assemblies, but to this august body, if I may say so the constituent power and we have inherited it. So, it is for this House to consider if the time has come when we should have a look-back or a fresh look at our own Constitution. Of course, that would require compelling reasons, and I don't think that the report we are discussing makes out any case for such compelling reasons.

Madam Deputy Chairman, the Report says, with all its few general