THE DEPUTY CHAIRMAN; To onclude your speech? SHRI BHASKAR ANNAJI MASODKAR; No, no. After lunch, if you sermit 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-thpee 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, beg to lay on the Table a statement (in English and Hindi) shewing the Sup plementary 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.

SHRl BHASKAR ANNAJI MASODKAR-. Madam, I was trying to make a point that the Indian Constitution has to be approached as a dynamic and living document and 1 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 merrfy 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. S"V»3i 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 woeing 10 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 coun. try reside only one people. You may be having different streams of cul tures, 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 spirt 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 whem 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 disscussing makes out any case for such compelling reasons.

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

[Shri Bhaskar Annaji Masodkar] remarks on the Constitution, which I have shown and want to empha sise, that the principle of unity and integrity is basic. It runs through spirit and letter of the Constitution, and each functionary of the Constitution is enjoyed with this trust that we will maintain the unity and integrity of this country. In this background I approach this very hea vy document. I have called it heavy, not because it weighs more but really it is heavy in its substance too. Madam Deputy Chairman, you are aware that one of the criticisms against the Indian Constitution is which I have shared myself, out of the House, that it is too detailed a Constitution. This Constitution has put so many things in the body struc ture which is not necessary to form part of the Constitution itself. I was just comparing—and I have before me here the select Constitutions of the world—and I was comparing our Con stitution with the select Constitu tions of the world, right from the federal Constitution of America which is treated to "bo a model or federalism, and those *who* believe in federalism, rerer to it now and again. You will find there is no comparable document to Indian Constitution. It is possible that there, were very many hetero geneous interests that were to be con-. iclered together, and that impelled the particulars to be put in the Con stitution. But basically the Consti tution concerns itself, as the other Constitutions of t?je world indicate, with the basic format of the Govern-it, the structure of the government, the rights and duties of those who form the State. But our Constitution has so many things and the impact of all that is now reflected in a docu ment which we are considering, the Report of Sarkaria Commission. This is not a grievance but reflection in the words and phrases used by the Sar-Ikaria Commission itself. Madam Deputy Chairman, I believe the House is aware of the terms of reference of the Sarkaria Commission. Those are quoted In the introductory part ane for the consideration of the Home Minister, I have to invite his attention to the reference that was made. I particularly feel that the Commission has over-stepped the terms of reference. The Commission was restricted as appears from the terms of reference, as is quoted in the introductory part on page 3. "The Commission will examine and review the working of the existing arrangement The word is "arrangement."

> ".... between the Union and States in regard to powers functions arid responsibilities' in all spheres and recommend such changes or other measures may be appropriate."

Paragraph 3 is also quoted. I need not repeat. But what does the Commission think? I quote:

> "The expression 'arrangements' used twice in the context of the phrase 'between the Union and the States', is of wider amplitude than the word "relations"..."

Madam Deputy Chairman, make a grievance of this position. As I said, the Constitution was the product of the deliberate wisdom of the found ing-fathers of this country and it re flects their anxiety to give us a document which will be workable not only for the present but also in the future. for generations to come. They have taken care to use the words carefully and particularly in part XI to which a reference was made by an hon. Member. This is how the part is worded "Relations between the Union and the States". Now, I would submit that the word "arrangements" would fre something less than "relations". "Rela-tions" shou'd be wider than "arrangements "Arrangements may lead to relations" (Interruptions). My first grievance for the consideration of the Home Minister is that the Commission is trying to open ... *(Interruptions).* In my humble submission, the Commission was asked to go into "arrangement". It wag not asked by the Government of India to enter upon the Constitution's aspects.. . *(Interruptions)* .. .or the Constitutional relations between the States and Union-

That is why there is absent the fallacy of reasons. That is why there were comment,; and criticisms here about role of Governor. Governor is not a matter of arrangement. Governor is not even mentioned in Part XL of the Consituton. It is an independent con stitutional function. Therefore I say that the whole structure of the Con stitution was not referred to the Sar-karia Commission. We must pre sume that the Government referred only a limited inquiry. That was, as the terms of reference set out, the arrangements between the Union and the States and not powers of function. It does not touch structure of the States. It does not touch the position of the States and the Union. Now, the Sarkaria Commission has given rise to this debate. What should foe the position of the States? What should be the position of Governors? What are the functions of the Governor, the States and and the Union? How the Judges are to be appointed? How the Judiciary should be constituted? All these things the Sarkaria Commission has gone into. In my humble submission, these would not be a matter of arrangement . When Constitutional documents are there and they use phrases like "relaions between the Union and the States", I submit that it is a complete word and would take in 'arrangements'. So the maximum that can be said as far as the terms of reference are concerned is that the Sarkaria Commission was expectsd to apply its mind to Part XI of the Constitution. But the questionnaire that was drafted, the questionnaire that was responded to by the States and the debates that were made are all reflected in this, what I call, very heavy document. As far as the position of the Union and the States is concerned, the Sarkaria Commission also recognises it and at page 16 it quotes from the States Re-organisation Commission. It is said that it is the Union of India that is the basis of our nationality. There is no question to make any changes on these aspects. Then, on page 17 this document says which are the major issues in Union and State relations and then sets out the issues from sub-paragraphs 5.1 to 5.9. Had the Commission restricted itself to this particular aspects set out in paragraph 5, Madam, I would not have any quarrel but it has overstepped it has entered into the debate right from legislative relations up to what they call the Governmental framework of the Constitution itself. *(Interruptions).* It is for the Home Minister to say whether it is so or not, but of course, he will give a thought to what I am trying to point out. So, Madam, as I said in the beginning, though the exposition of this report is very erudite and it has kept to the Ministry of this country, it has overstepped the referral point made by the Government of India.

Secondly, Madam, I have only a few comments to make on the submissions that are made by the hon. Members and while summing up I have a request only to the Government of India. Madam, if we go to part XI you will notice that the relations have been divided into legislative relations, administrative relations, disputes relating to waters and coordination between States. So, on these four topics come the relations of Union and the States. Now it is possible, as the Sarakaria Commission says, that the extent of laws made by the Parliament and by legislature at States may take in the whole world of administration and the subject matter of laws made by Parliament, that is the State List and Concurrent List. No useful purpose will be served by referring to all those lists because they have got their own genesis in the 1935 enactment and thereafter the adoption by the Constituent Assembly of the system of division of powers. As far as the control of Union over States is concerned, article 257 is concerned, it is very explicit and I submit, in the interest of the unity and integrity this power of the Union should be maintained as it is. There is no case made out so as

[Shri Bhaskar Annaji Masodkar]

to whittle down the powers which are conferred on the Union under the head of 'administrative relations'.

Then, Madam, the most important aspect is, appointments to constitutional functionaries like the Judges or he Governors, I do not think it can be suggested with some force in the structure of the Constitution as it is, that the Governor is a non-entity. of you see the political map, if you want the Constutution as it is, if you want to work the Constitution as it is, you cannot but have the offices as are laid down by the constitutional structure. Unless you do have that the President is just an anomaly, you cannot go by the same principle that the Governor is also a nonentity. This is a matter of constitutional structure and as you are all aware, and as I said, the test is the historical position that had obtained when we became free. There was, and there is, what you call for the purpose of unity, a necessity to have the offices wherein the unity is signified or symbolised and that is how the Founding Fathers looked at the office of the President, looked at the office of the Governor. But, as I said, this States and the Union not being on equal footing, there being no constitutional equality of powers and functions, the Governor was the representative of the President. It is wrong *to* say that he is the agent. As the States Reorganisation Commission has rightly said, State is just a limb of the Union. The limb is also formed in the same manner. The working which the Sarkaria Commission was asked to examine itself showed that the Union acted with discretion and discrimination was not seen even by the. Sarkaria Commission in the matter of appointments to these high offices. Therefore, the criticism that we must adopt a particular part of this particular report and we should not adopt snother part of it goes to show that although a very erudite exposition is here before us, the Commission has not done, or rather overdone the task which it was given. If the Government decides to go by the recommendations of the Commission, we will have to re-write the whole Constitution. It is not a matter of new arrangement. You will have to restructure the articles of the Constitution in such a way so as to con-i'orm with the recommendations of the Commission. If the House ultimately, and the Government, feel that by reason of the tensions that have developed in this country, particularly by regionalism and paro-chialism by things which are trying to see the body politic of this country and there is a threat to our-national unity and national integrity, the Constitution should be looked into, it is a larger question. As I said, it is an open question and it is for the Government to look into it and not by such a report.

Thank you, Madam.

SHRI CHITTA BASU (West Bengal): Madam, I feel and I strongly feel that in order to properly appreciate and evaluate the recommendations of the voluminous Sarkaria Commission, we should have an approach of bench-mark. So far as am concerned, J feel these are the proper bench-marks for correct evaluation of the Sarkaria Commission Report. Firstly, we are to find to what extent national unity and integrity of the country can be strengthened and guaranteed. Having re-gard to the reality of the situation as it prevails today, a process of fast disintegration of national unity has been set in motion.

Secondly, we should also find whether or not the recommendations of the Commission are adequate enough to protect the interests of the States which are constituent parts of the Union of India which. I agree, is indestructible. But I do not appreciate the idea that the States are destructive, because I believe in the

principle that to have a strong Centre we must also have strong States. Therefore, from that point of view it is necessary to evaluate as to the extent to which the States' autonomy and their rights have been protected by the recommendations of the Commission.

Thirdly, whatever may be the content of federalism in our Constitution as it exists today, facts reality and history say that the key's to India's unity and integrity lies in federalism. If we give up the idea of federalism, then the unity and integrity of the country cannot be guaranteed. We have to find out to what extent the principles of federalism which are latent in our Constitution have been protected if not further expanded.

Fourth-ry, I want to have this benchmark also, whether the recommendations strengthen the roots of parliamentary democracy in our country because parliamentary democracy is a guarantee for the unity of our country because unity of our country should be a unity amongst variety.

[THE VICE-CHAIRMAN Shri B Satyanarayan Reddy in the Chair]

Lastly, another benchmark should be, whether they help and contribute, finally, for the creation of a strong Centre. I say a strong Centre is needed, but a strong Centre can be created only with strong States.

Sir, so far as these benchmarks are concerned, you would kindly allow me to say that none of these litmus tests has been passed by these re commendations. You will find that the recommendations have, on the contrary, stresssed excessive centralization of powers in the hands of the Union, not only in the case of exective power and administrative power but also power in the case of economic and fiscal resources. Therefore, it is more towards over-centralization, and this over-centralization of power,, as has beeni pointed out by the speaker who preceded me, will necessarily lead to anaemia of the States. Scondly, the recommendations have, as far as I have found, totally failed to say that deprivation of the Spates and excessive powers with the Centre are factors which encourage divisive forces, parochial forces, separatist forces and, even, secessionist forces. Therefore, the matter of deprivation of the States is not merely the consideration of giving some and and assistance for the development of the Spates. Deprivation of the States' rights, curtailment of the States autonomy, ultimately leads to the disastrous effect of alihation of people from the 3 P.M. concept of Indian unity. Again, I will say, the recommendations and all calculated towards the objective of creating a strong Centre and that too at the expense of the States. The concept of a strong Union is a misnomer.

But, at the same time I want to emphasise,, unlike those who feel that the State or the Union has got no decisive role to p^ay, in the present setup, in the economic, political and social reality that exists today, '.he Centre has a crucial role to play for economic planning,, for coordination, for strengthening of national unity and integrity and for defeating the fissiparous froces that are raising their heads in our present situation,

The Commission, according to me. seems to have taken the position that the present Constitution, the constitutional arrangements are foolproof arrangements and that they need no change. Sir. I violently- differ with that view because if we have to reach those goals, then, with the change of time, the constitutional provisions are also to be changed having regard to the reality of the situation, The Con-

[Shri Chitta Basu]

stitution cannot be taken as a sacrosanct document, a legal document in that respect,

It seems that the Commission has drawn the conclusion that the only remedy lies in further centralisation of power. Centralisation of power — Sir, allow me to say — leads to authoritarian 'trend. This authoritarian trend does not strengthen the spirit of federalism, does not protect the States' rights,, does not protect the States' autonomy, does not create conditions for creation of a strong Centre with strong States because all these trends ultimately lead to weakening of the States and their autonomy

Sir, the Commission hag fall.ed to take serious note of the fast developing contradiction between 'the States and the Centre. I do not like to describe this contradiction as a contradiction between the States and the Centre. As a matter of fact, these contradictions ara contradictions between the vast masses of our people and the Centre's policy. It should not be interpreted, for example, that the States of Andhra Pradesh, West Bengal and Kerala are ranged against the Centre. As a matter of fact, the reality is, the deprived States, the people of these States and even the people of the Congress (I)-ruled States feel that the Centre's policy is based on over-centralisation of power which ultimately leads to deprivation of the States' rights and States' autonomy and becomes a roadblock in the way of their further development, social, political and economic.

Therefore. Sir. from this point of view, I am sorry to say that the recommendations of the Sarkaria Commission have not fulfilled the hopes and aspirations which were raised when the Commission was set up.

I don't say that the Sarkaria Commission Report has been altogether a negative one. I don't have that view. It has some positive aspeets also. One of the positive aspects under the present circumstances is the setting up of an Inter-State Council. Sir, I want o mention only one observation of the Commission. It says and I quote:

> "Before 1967 it was easier to resolve differences and problems that arose between 'the Union and States at the party level because the same party was in power? at the Union and the States. Since 1967, parties and coalition of parties other than the one running the Government of the Union have been in power in several States. The State Governments of diverse hues have different views on regional and inter-State problems. Ir such a situation the setting up of an Inter-State Council with a comprehensive charter under Article 263 has become an imperative necessity."

This is a positive recommenda-ion and I am of the view if at least this paricular recommendation is implemented, then much of the problems in regard to relations between the Centre and the States which are de teriorating day by day can be solved.

Now,, I want to mention another positive recommendation, that is in regard to the Planning Commission and 'the NDC. You may be aware that a study team of the Administrative Reforms Commission described the National Development Council as 'a forum for ventilation of individual grievances rather than collective discussion on the principles and policies.' Therefore, the National Development Council, according to the Commission's recommendation needs to be restructured. I think the Government should take a positive approach on this recommendation. If you allow me to quote a little more, the Commission itself has mentioned about the continuous denigration of the NDC. I quote in their words;

"The NDC meets at the initiative of the Planning Commission, which determines the agenda. The Council has been approving the approach paper and the draft Plans, but has not been keeping track of the progress of the Planning. Consideration of other policy questions affecting the national development, which is one of its stated functions, has been infrequnt and insufficient. The frequency and duration of its meetings are very inadequate. Only 39 meetings have been held since 1952. Thirtyseven meetings were held after a gap of two years and four months whereas the resolution constituting it specified that the Council will meet at least twice a year.

Lastly, I say the Standing Committee and the special committees are not formed or convened On a regular Dasig for an indepth analysis or consideration of the issues. So far as the economic development of the country is concerned,, the National Development Council should play an important and crucial role.

Since you have rung the bell ana I am quite aware of my limitations, I feel that that recommendation particularly relating to the Planning Commission and the NDC should be implemented without any further delay.

Now, I would refer to the question of transter of resources. I shall noc dwell on it, but simply mention thai; the corporate tax sharing is a welcome move as recommended by the Commission. But what about the consignment tax? I have got in my possession certain documents... *(Interruptions)* even regarding. Maharashtra. The Maharashtra Chief Minister is on record to say at least Rs. 3,000 crores to Rs. 4,000 crores have not been made available to the Maharashtra Government because of the non-passing of the Consignment Tax Rill. There is a recommendation in that regard' also that the Government should take immediate steps so that "he consignment tax is available with the State exchequer.

Then 1 come to the question or agricultural income-tax You have referred to it, but I feel the Government must have courage to get the agricultural income-tax implemented in different States. What I am saying is that these are the positive recommendations you should take note of and share all your re-sources realised through administered price hike. If is *not* necessary for me to describe the reasons as to why it has not been put in the divisible pool—why the prices are not increased by your excise duties — why they choose to impose this price rise on the basis of administrative fiat. Therefore, these are all positive recommendations which the Govern-ment should take note of.

Lastly, I want point out only one point the right of the Union to deploy *suo motu* Armed Forces in the States and the right of the Union Government to declare an area as disturbed area. Sir, this is a highly politically charged issue. States have their autonomy. They have got their own Government. They are elected by the people of the State. One of the bitterest irritants between the States and the -Centre is the deployment of Armed Forces without con suiting, without seeking the consent of the State Governments concerned, you have declared certain areas of the State as disturbed areas without taking into consideration the views, the opinion of the State Government. And that creates strained relations between the Centre and the States. Unfortunately, these issues are mentioned by the Commission but there has been, no positive recommendation in that respect. If the Government wants to improve the Centre-State relations, then, regarding this of deployment of Armed Forces as the case of Tripura, as in the case of several States in the North-Eastern

[Shri Chitta Basu]

part of the country, the Government should take cautious steps in this regard. This makes the people, broad people alienated from the mainstream of the country's fabric. Therefore, without taking much of your time, I would suggest that the Government should take into account the positive aspects of the recommendations and implement them as early as possible. On the other hand, I strongly feel that the Constitution needs to be changed. Here the Commission has faltered. As he hag mentioned earlier, they have mentioned some arrangements have to be changed but have not specifically jecqmmended that the Constitution is to be changed and I feel the Constitution is not sacrosanct, Constittuion needs changes with altered situation prevailing in the country. Therefore, there is the necessity of having fresh look into the Constitutional provisions particularly pertaining to Centre-State relations. Only in that way we can build up a stronger Centre with stronger States. A strong Centre becomes a misnomer with weak States. We want a strong Centre as well as we want strong States. Thank you.

SHRl JAGESH DESAI (Mahara-rashtra): Mr. Vice-Chairman,, Sir, as far as possible, I will restrict myself to the financial aspects of the Sarka-ria Commission's report. Mr. Chitta Basu, you may kindly sit in your seat when I am speaking.

SHRI CHITTA BASU; I will be here.

SHRI JAGESH DESAI: The terms of reference of the Commission I will read out and in the light of the two terms of reference we should examine the report of the Sarkaria Commission and the Government should take action on that report, taking into account these two basic terms of reference. "The Commission will examine and review the working of the existing arrangement between the Union and the States in regard to powers, functions and responsibilities in ail spheres and recommend such changes or other measures ag may be appropriate". But more important in my view is para 3 of the terms of reference which says, "in examining, and reviewing the working 0f the existing arrangements between the Union and the States and making recommendations as to the changes and measures needed, the Commis sion will keep in vie^d the ocial and economic developments that have taken place over the years and have due regard to the scheme and frame work of the Constituion which the founding fathers have so sedulously designed to protect the independence and ensure! the unity and integrity of the country which is of paramount importance for promoting the wel fare of the people". So, the most important thing, to my mind, is the integrity and oneness of this country and in the light of that,, we have to examine the recommendations of this Commission. Sir, there are many functions which the State should per form but because of some reasons, it is to be performed by the Central Government. For example, law and order. Law and order is the respon sibility of the State but because of some reasons, I do not want to blame the States the Central Government has to send what you call its forces there and the expenses on their ac count is borne by the Central Govern ment and not by the State Govern ments. Education to my mind is the responsibility of the State Govern ment but we arew seeing that major burden is borne by the Central Gov ernment. Drinking water is a State subjejct but the Central Government every year, allots huge funds for drinking water so that every where in the country, in all the villages where drinking water is not available. water could be provided. But this is also the duty of the State Government which the Central Government, to some extent, is performing. So, we

-iiave to see whether the Central Government is helping the State Governments for the finances. Now, Mr. Chitta Basu has very rightly said that there should be strong States and a strong Centre. If the States are weak, the nation cannot be strong. But if the Centre is not strong, then there is going to be balkarhsation of the whole country and that thing we can never allow and that is the paramount aspect that has to be taken into account by the Sarkaria Commission before giving any kind of recommendation and I would like to dwell on that aspect. As yon know, in this House, I have always pleaded the cause of the States for more resources. I always said, yes, the States must be given resources and for that purpose, in this House, I myself had asked questions regarding the professional tax, regarding the consignment tax and So on. I do think that a time has come when we should have a Bill on consignment tax. Till now, we have not brought the Bill. It has to be there. I agree with that. There is no question about that.

As far as professional tax is concerned, I think, the amendment is being discussed in the other House and it will come to this House later on. But we ' should ensure one thing. As Members of the Rajya Sabha, we represent the States. The maximum limit has been put at Rs. 2,500. But in this connection, I would like to make an appeal to all the State Governments including the Government of Mr. Upendra that after this amendment is passed, the State Governments should raise it gradually , from Rs. 250 to Rs. 500 and from Rs. 500 to Rs. 750 etc. instead of increasing it by one stroke. Care should be taken in this so that there is no large burden on the middle -class people.

As far as the question of a strong Centre is concerned, I would like to bring to the notice of the House what the position was in America some years before and what it is today. In the year 1930 or so, there were more powers with the provinces, what we call States here. But through a series of decisions, their Supreme Court, by a liberal construction of the Police, Commerce, Taxation and Spending Powers unde their Constitution, practically left it to the Congress to determine by legislation what was a 'national purpose', 'national interest' or 'national objective' for evaluation of the proposal for federal aid programmes. After 1960, in the U.S.A., the powers of the States have been reduced and the federal powers increased.

SHRI CHITTA BASU; This is the general trend.

SHRI JAGESH DESAI: Not only in the U.S.A. This is the case in Australia, Switzerland, which is a more liberal State, and West Germany. This the trend everywhere because they want that the Centre should be strong. If it is not strong, if it is weak, the country will disintegrate. Therefore, when we speak about ttie Centre-State relations, we shou'd see that the Centre is not weakened. The State should become strong but at the same time, the Centre should not become weak. Care should be taken. *(Interruptions)* That is why I would appeal to m friends on the other side that none of our actions should be such by which the Union is weakened.

I would now like to touch upon three or four aspects which Mr. Chitta Basu has raised. He dealt with corporation tax. Yes. The Sarkaria Commission has recommended that, if necessary, the Constitution should be amended so that the corporation tax is sharable. But he did not tell the whole truth. He did not refer to what the Commission has said further. I would like to bring that *to* the notice of the House. Of course, the Commission said that the Constitution should be amended, if necessary, so that the corporation tax can

[Shri Jagesh Desai] be made sharable. At the same time, th$_e$ Commission felt that the resources of the CentraL Government will b$_e$ reduced. This is what the Commission has $_s$aid. The Commission said that it is also necessary to make adjustment to be cairied" out by suitably bringing down the share *of* ...

SHRI CHITTA BASU; Income-tax.

SHRl JAGESH DESAI: Income-tax and excise duty, both. This is what the Commission has said. I also feel that for the purpose of State revenues, it should be amended, if necessary. And corporation tax also should be made shareable. With that principle I have no objection. But we have to see the overall picture, from where the Centre can get additional resources. We have to spe.l out that also. What I have seen is the growth rate of revenue resource in the State Governments is more than that of the Central Government, i can give you the figures for thirtyfive years. The growth in the revenue resources in the Union List jg 12.58 per cent whereas in the case of States it is 13.67 per cent. After the devolution of the share by the Centre to the State Governments it will be more. So to say that the States are not getting a fair treatment from the Centre in regard to resources is not correct. You can ask for more. It is a different thing ...

SHRI CHITTA BASU; My point is that the source of resources for the Union is elastic while the sources of realisation of revenue for States is inelastic.

SHRI JAGESH DESAI: As regards taxation, it has been prescribed in the Constitution—this is the Union List and this is the State List, You suggest something as to what is to he done for the States and I will agree with But I have my own th'nkintt on this which I would like share with the Housn. To say hat the resources of the States are less is nut correct

SHRl CHITTA BASU; The States resources are inelastic.

SHRI ALADI ARUNA V. ARUNACHALAM (Tamil Nadu): The Finance Commission had clearly stated that the financial resources of the States are not elastic: they are inelastic. It is a fact acknowledged by the Finance Commission.

SHRI JAGESH DESAI: If it is acknowledged, then how is the rate of growth in the States is more than in the Centre? *(Interruption*^ [r] have given general figures, total figures. As I said earlier, we [1] that. the Stages should get more finances but by generation of inter nal resources and by taking taxation measures. But for political reasons they do not want to raise the taxes and they say, "AU right 'he Central Government should give u« funds". So it is not correct. As regards sales tax, it is a State subject. Now to aay, "All right, you have en croached to some extent in that so-here." Is not correct. There are certain items for which the Cen tral Government decides the rates of sales tax. Why is this being done? It is being done because there are some goods which are of national importance and there should be some kind of discipline in regard to taxation of those goods. But then the revenue from them is given to you. Whatever 4 per cent central sales tax is there, it is given to you; it is not retained by the Centre. As regards income-tax I would like the Honourable Minister to consider my suggestion. For example, Compul sory Deposit Scheme was there If you do not pay the Compulsory De posit according to what you have to pay, then, to that extent, you have to pay Income-tax. So. it was in *lieu* of Income-tax. So, I am of the strong view that where any resource is generated *in lieu* of Income-tax, if should be passed on to the States. Another example I would like to give you now.

The Special Bearer Bonds were floated by the Government. Those who buy those Bonds would not be asked as to wherefrom they got that much money which means that they have not paid Income-tax to that extent on what they have invested. I think there is a case for the States here and I feel that whatever you have collected on account of the Special Bearer Bonds should have been considered as small savings and the share should have been passed on to the States.

Then, with regard to the Capital Gains Tax, you are not to pay the tax provided you invest either in the UTI Capial Gains Bond or the IDBI Capital Gains Bond and if you invest therein, then you need not have to pay the Capiial Gains Tax. I would like to know from the Government whether the State Government has not lost 85 per cent share in Income-tax and, if so, I would like the Government to consider the suggestion that the Capital Gains Bonds which are floated for purposes of exemption from the Capital Gains Tax should also be considered as small savings and a share of about 75 per cent of that Bond should be given to the States. This is how we can make out a case for the States to see that they get more finances for their development.

As regards administerred prices, I am very clear in my mind that they are not shareable with the States. I am very clear about this and I have made this clear in this House and I have made this clear in this House and I want to repeat it. I am very happy that the Sarkaria Commission has also come to that conclusion that the administered price is not tax.

SHRI PAWAN KUMAR BANSAL (Punjab): It is not what?

SHRI JAGESH DESAI: It is not tax,

SHR CHITTA BASU: What about Excise Duty?

SHRI JAGESH DESAI: In that case, you have to take into account all aspects. What about the subsidy given for foodgrains to be supplied through the public distribution system? Is it not administered price? What about the subsidy for fertilizers? Is it not administered price? What about the burden which is borne by the Government? Here there is one thing. For some years you did not increase the price of some item. For three years you did not increase. But in three years the cost of inputs, the cost of raw materials, has gone up. But for three years the Government did not do anything. That is why, when you increase it once, people ask why you have done that. I have said earlier and I repeat also that if the administered prices are increased because of inefficiency, then we should not allow that. But, if it is required for commercial purposes like, say, a higher wage bill, then you can allow it. Last year, nearly three thousand crores were used by the public sector and that has to be taken into account by the Government while fixing the prices. That is why I am very happy, because the Sarkaria Commission has also taken that view. But, at the same time, I would urge upon the Government to do this price increase periodically and not once in three years. I say this because, if it is done once in three years or so, it gets accumulated and the people would ask why the Government ,is incerasing the prices so high. Administered prices do not go into the coffers of the Government, but it goes to the public sector. If the Government does not get anything out of it, it should not be done at all and I want to make it again very clear.

Now, what is the point in saying that Income-tax and Excise Duty

[Shri Jagesh Desai]

and others are collected by the Central Government? What is the aim of all of us? It is that backward States and economically weaker States should get some kind of help from the Centre. What is the purpose behind "hat? Most of the major taxes figure in the Union List such as customs duty, excise, corporate tax, income-tax, because by their very nature they can be effectively administered only by the Union, so that they are uniform in all the States, and the incidence of this taxation from the Centre is essentially for preserving the economic integrity of the country. The Constitution seeks to ensure this by putting them in the Union List. I do not know which party, but there has been a demand from some quarters that except defence, currency, foreign affairs and communications—only these four subjects should be given to the Central Government—all others should be given to the States and the States should collect the taxes and they should do everything and only for those four purposes mentioned above they will go to the Central Government according to the proportion in which they represent Parliament. This is what some people have proposed, I do not know which party. But, to my mind, this is a very, very monstroug proposition. By that you want to make the Centre weak. No country can accept it. And no patriot, according to me—You may have different feelings—can accept this ...

TH VICE-CHAIRMAN (SHRI B. SATYANARAYAN REDDY): Do you mean to say that all those who have said it are unpatriotic?

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): How can it be? How can he say that?

SHRI JAGESH DESAI: Why, I tell you. As far as income-tax is concerned, 85 per cent is given to the State Governments, in proportion to what each has collected in its State. Of that 85 per cent income-tax in 1989 UP will get 18.3, Bihar 12.3, Ma-harshtra 10.1, MP 8 per cent. Where-from fe this income-tax realised? Maharashtra must be giving not less than 30 per cent of the total income-tax. And what do they get as their share? They get only 10 per cent. Why? Because, we want to help those backward States like Bihar and UP where they require more finance to see that their backwardness is reduced. The same is the case with excise. UP gets 20 per cent, Bihar 13.6 per cent, Maharashtra only 5.6 per cent., Madhya Pradesh 8.7 per cent. Though I have no study with me, Maharashtra must be collecting the chunk of excise, I think not less than 20 or 25 per cent of the all India yield, because it is the most developed as far as industry is concerned. And we have to see to the development of our weaker States. And that is why it is necessary that this type of taxes must be levied by the Centre so that we can do justice to ali the States which are poor or which are economically weaker, so that their economic development is not hindered. That is why the Finance Commission has suggested 5 per cent of the excise duty. Forty per cent is divisible and 5 per cent to those States which are defiict States. If it was not done and if all those rich States Hke Maharashtra, Gujarat, etc. are given in their proportion, then they would have been largely benefited and not States like UP, Bihar and Orissa. All the States of India are our brothers. I come from Maharashtra, but can I say whatever is collected from Maharashtra should be handed back to Maharashtra? You have to see that, and that is why for preserving unity and integrity and making all the States strong, this kind of things have to be done. And that is why, Sir, as I have said earlier, we have to see whether this is the whole basic approach which the Sarkaria Commission has shown in their renort to see whether the States are getting a fair share or not, whether these States

winch are weaker are getting the advantage or not and whether the integrity and the unity of the country is preserved and the country becomes stronger.

Sir, I have two more points to make. As far as small savings are concerned, these are given to the States as loans. As I said earlier, whatever the Central Government is getting *in lieu* of income-tax and whatever those things are there, they should also be passed on to the State Governments. Similarly, when Mr. V. P. Singh was the Finance Minister, I had talked to him when they decided that on non-Government provident fund 40 per cent should be put in special deposit account and on which the State will not get a share. I told him that this was wrong and that he should correct it. Unfortunately, till today, it has remained like that. I would like the hon. Home Minister to take up this with the Finance Minister and he should see that whatever collections are there from the small savings scheme, they should also be passed on to the State Governments. At least 75 per cent of that should be passed on. And the wrong done by Shri V. P. Singh should be undone by this Government. I pleaded with him that he was wrong. And because of that, Maharashtra, Gujarat and other States which were making all efforts for mobilising small savings, they are put to difficulties. Maharashtra alone in this Five Year Plan will suffer by more than Rs. 1.750 crores. Where from will they get the funds? That is why. Sir, I again request the Home Minister and also the Finance Minister that all the amounts collected under the special deposit scheme should also be sharable as loans to the State Governments as it has been done in the case of other small savings.

Secondly. Sir, you have reduced the rate of interest on the Nationa Savings Certificates from 12 per cen' to 11 per cent. Why? It is to give tioans to industrialists at a less rate of interest. Lakhs and lakhs of ac count-holders are there those who have invested their hard-earned mo ney. Their rate has been reduced from 12 per cent to 11 per cent. And on the National Deposit Scheme you have increased the interest rate to 11 per cent. Why? Who are going to put money into that National Sa vings Scheme? It is only those who have large incomes. To get relief from income-tax, they will put every year Rs. 30,000. When they with draw they will have to pay tax on that. But they will only withdraw in the year when the lossses are there. To such persons you are giving those benefits. And to those who have put in their hard-earned money, you are not giving 12 per cent interest. I have seen the colletions of smalli savings. There in the State of Tamil Nadu if I remember correctly, every year they are affected by Rs. 300 crores because of this scheme. Their resources have been affected. That is why, Sir, I urge upon the Government that you examine all such taxes which have been taken by which the resources which were available to the States have been reduced because of your policy. I would like to request the Government to look into this. About the consignment tax, as I said earlier, the States cannot wait tor a longer time because if you will not bring in the consignment tax-evasion to the extent of crores of rupees will continue. I know there is some kind of business which is going on on only telephones, say from Gujarat oil is really sold to Delhi. But it is shown as a sale through a commission agent. And if it is shown as a sale through a commission agent, there is no central tax. That is how most of the States are affected because of this consignment tax not be. ing brought in. They say that prices will go up. See. every year we are increasing the tax, excise, customs why not this year? This industrial lobby will always say that prices will

[Shri Jagesh Desai] go up. But even in spite ol that you are raising the prices and that is why this leakage of revenue has to be stopped and that is why I would like the Government to come at the earliest with this Consignment Tax Bill so that the States can get their resources.

Sir, if you do like this I think the States will get much more revenue than what they are getting today. I am satisfied that the Central Government is giving them funds to the extent required for their State development plans than we are giving to the public sector plans, but they should continue to get it. But, at the same time, we should also see that we should not utter such words or take such kind of actions or frame such kind of schemes by which the Centre can be weakened.

With these words, Sir, I welcome this Report. 'They have (taken much trouble and whichever good points are there, they should be accepted and the other points should be discussed. Both the Houses should be taken into confidence and in fact, there should be a debate throughout the country and then the Government should decide which recommendations should be accepted and which should not be accepted. With these words, I welcome the Report. Thank you.

श्री वीरेन्द्र वर्मा (उत्तर प्रदेश) : उपसभाध्यक्ष महोदय, देश का संविधान संघीय ढांचे पर आधारित है । सभी स्वीकार करते हैं कि केन्द्र को शक्तिशाली रहना चाहिए, किंतु यह भी कोई नहीं चहेगा कि प्रदेश की सरकारें कमजोर बनें । जंजीर की एक कड़ी यदि कमजोर होगी, तो जंजीर भी कमजोर होगी, वह कभी शक्तिशाली नहीं बन सकती ।

इसलिए केन्द्र का मजबूत होना, प्रदेशों का मजबूत होना, देश का मजबूत होना है । केवल केन्द्र अकेले से देश मजबत नहीं हो सकता । इसलिए पूरे देश के विकास के लिए समान अवसर सभी प्रदेशों को प्रदान किए जाने चाहिएं । संविधान के निर्माताओं ने उसी उद्देश्य को ध्यान में रखते हुए संघीय ढांचा बनाया है । देश के प्रथम प्रधान मंत्री, स्व० जवाहरलाल नेहरू जी के कार्यकाल में कभी भी केन्द्र और प्रदेशों के मामले में विवाद नहीं उठा था । उनके कार्यकाल में राज्यपालों की जितनी भी नियुक्तियां होती थीं, वह केवल प्रशासनिक अनुभव, उनकी योग्यता और उनकी निष्पक्षता को ध्यान में रख कर के ही की जाती थी, किन्तु आज मान्य गृह मंत्री जी मुझ से सहमत होंगे कि राज्यपाल की नियुक्ति योग्यता और अनुभव के आधार पर नहीं, बल्कि राजनीतिक दृष्टि को ध्यान में रख कर की जाती है ।

फलतः इसी कारण प्रदेशों में और केन्द्र में विवाद खड़ा हुआ है और एक असंतोष--मेरे जैसे व्यक्ति को प्रतिदिन बढता हुआ नजर पड़ता है । प्रदेशों को शिकायतें हैं कि केन्द्र, प्रदेशों की स्वायत्तता में बाधा खड़ी कर रहा है, उन्हें परेशान कर रहा है, सहायता देने में भेदभाव करता है और जनमत पर आधारित सरकारों को कमजोर करने, गिराने और उनके कार्यों में रूकावटें खड़ी करने का प्रयास किया जाता है, ऐसी शिकायतें आज विभिन्न प्रदेशों की सरकारों को होने लगी हैं । माननीय गृह मंत्री जी पता नहीं मुझ से सहमत होंगे या नहीं, 1984 ईस्वी में सिक्किम, आन्ध्र प्रदेश, जम्मू और कश्मीर में दल-दल को प्रोत्साहन देकर आन्ध्र प्रदेश और जम्मू और काश्मीर की सरकारों को गिराया गया और राज्यपालों ने निर्लज्जतापूर्वक कार्यवाहियां की, श्री राम लाल जी ने की, राम लाल जी आज आपके साथ नहीं लेकिन उनसे आज आप पूछे सकते हैं ।

श्री बूटा सिंह : नेशनल फ्रंट में हैं ।

श्री वीरेन्द्र वर्मा : चलिए पहले आपके साथ थे जब वहां होंगे । लेकिन राम लाल जी से आप पूछिए, किसके कहने पर, किसके इशारे पर उन्होंने आन्ध्र प्रदेश में वह कार्यवाही की थी ।

श्री बूटा सिंह : अब कौन रोकता है।

श्री ईश दत्त यादव : अब इस बात से आप तो सहमत हैं।

श्री वीरेन्द्र वर्मा : मान्यवर, अभी 1988 में मिजोरम में जहां गृह मंत्री जी स्वयं भी गए थे, 7 दिन तक ड्रामा चलता रहा, आप भी हो आए और गवर्नर महोदय और कहीं रहे इतने बड़े संघर्ष में और झगड़े में भी और वह आपके पक्ष में न जाता हुआ देख कर आपने वहां की विधान सभा को भंग कर दिया। नागालैंड में भी यही हुआ। दल-बदल से आपकी सरकार आन्ध्र प्रदेश में और जम्मू-कश्मीर में बन सकती थी तो बनवायी और मिजोरम तथा नागालैंड में नहीं बन सकती थी तो असैंबलियों को भंग करा दिया। यह बहुत उचित और न्यायोचित प्रतीत नहीं होती। इसी कारण प्रदेशों में और केन्द्र में मतभेद उत्पन्न होता है, अविश्वास उत्पन्न होता है।

श्री बूटा सिंह : हरियाणा में हम ने इस्तीफा नहीं दिलवाया था।

श्री वीरेन्द्र वर्मा : सारा ही करवट बदल दिया था। आपके भजन लाल जी 37 आदमियों को लेकर जनता पार्टी में थे सारे कांग्रेस पार्टी में हो गए थे। कहां की आप चर्चा कर रहे हैं। मान्यवर, मेरी आपसे गुजारिश है कि देश की एकता और अखंडता की खातिर आपको इस प्रकार की कार्यवाहियां करनी चाहिए जिससे कि इसकी कोई धक्का नहीं लगे। सन् 1987 में जनता द्वारा चुनी गई पंजाब सरकार की फरवरी, 1987 में आपने प्रशंसा की, प्रधान मंत्री जी ने प्रशंसा की, राष्ट्रपति जी ने प्रशंसा की, और 17 मई, 1987 में तीन महीने पश्चात उसी सरकार को भंग कर दिया राष्ट्रपति शासन लागू हुआ इस कारण कि बरनाला सरकार पंजाब में शांति और व्यवस्था स्थापित नहीं कर सकी, आतंकवाद को रोक न सकी। मान्यवर, जब से पंजाब में राष्ट्रपति शासन लागू है तब से और अब तक बरनाला सरकार के कार्यकाल में जितनी बेगुनाह लोगों की मौतें हुई थी उससे तीन गुनी मौतें अभी तक हो चुकी हैं। अब किसे बर्खास्त किया जाएगा ? इस पर भी सोचिएगा कि अब किसका नम्बर है।

मान्यवर, आजादी के पश्चात् अभी तक संविधान की धारा 356 के अंतर्गत 77 बार देश के विभिन्न प्रदेशों में राष्ट्रपति शासन लागू हुआ। बहुत सी दफा ऐसा भी है कि यह भी नहीं देखा कि उस पार्टी की मैजोरिटी है या नहीं, या किसी की मैजोरिटी है या नहीं।

राज्यपाल यह नहीं तय कर सकता कि किसकी मैजोरिटी है, किसने मेजोरिटी हासिल कर ली है, किसने खो दी है, ? नागालैंड और मिजोरम में तो आपने कहीं भी नहीं देखा कि किसकी मैजोरिटी थी और एकदम बरखास्त कर दिया। तात्कालीन राष्ट्रपति महोदय ने सर्वश्री भगवान सहाय, गोपाला रेड्डी, विश्वनाथन, एस० एस० थवन, अली यावर जंग की इन विवादों से उठी परिस्थिति में एक समिति गठित की थी माननीय राज्य गृह मंत्री जी यहां उपस्थित हैं, जिन गवर्नर के नाम मैंने लिए हैं, क्या देश में ऐसे स्टेचर का कोई भी गवर्नर है ? इन्होंने भी अपनी सर्वसम्मति से संस्तुति सन् 1971 में दी थी, लेकिन वह संस्तुति भी रद्दी की टोकरी में पड़ी है, उस पर कोई भी अमल नहीं करता। सरकारिया कमीशन ने भी इस सिलसिले में रिपोर्ट दी है, उस पर भी कोई अमल नहीं करता। इन परिस्थितियों में मतभेद का पैदा होना स्वाभाविक है।

आज आन्ध्र प्रदेश में क्या हो रहा है ? कुछ समय पहले तक यहां सक्रिय पोलिटिक्स में मिस जोशी सदस्य थीं, उनको राज्यपाल बनाकर आन्ध्र प्रदेश में भेज दिया गया। पिछली बार किस्सा उठा था उनके खर्चे का कि जितना प्रिसक्राइब्ड खर्चा है, उससे कहीं अधिक खर्चा करती हैं और आज मिस जोशी की यह चर्चा चल रही है कि जो वहां का गवर्नमेंट की सिफारिश है, उसको राज्यपाल महोदया नहीं मान रहीं।

[श्री वीरेन्द्र वर्मा]

मान्यवर, आप संविधान को उठाकर देखें । जो इसके निर्माता हैं डा० अम्बेडकर, उन्होंने ही नहीं, सबने कहा है कि एक तरह से—

Dr. Ambedkar said in the Consti tuent Assembly on December 30, 1948, that the position Of the Governor is exactly the same as the position of the President.

इक दफा नहीं, मान्यवर, इसको सभी स्वीकार करते हैं। लेकिन फिर भी आन्ध्र प्रदेश की राज्यपाल महोदया वहां जनता की चुनी हुई सरकार को कमजोर करने में, नीचा दिखाने में खड़ी रहती हैं, काम करती रहती हैं, ऐसा मुझे प्रतीत होता है।

मान्यवर, राज्यपालों की नियुक्ति के संबंध में माननीय पंडित जवाहर लाल नेहरू जी ने 30-31 मई, 1949 को संविधान सभा में एलान किया था, टी० टी० कृष्णमाचारी ने और कृष्णम स्वामी अय्यंगर साहब ने भी, कि हर हालत में जिस स्टेट में भी गवर्नर की नियुक्ति करें तो वहां के मुख्यमंत्री के मशविरे पर ही करें । क्या आंध्र प्रदेश के मुख्यमंत्री से आपने पूछा था? क्या केरल के मुख्यमंत्री से आपने पूछा था? क्या हरियाणा के मुख्यमंत्री से आपने पूछा था? या किसी भी प्रदेश के मुख्यमंत्री से आपने पूछा कि हम इस गवर्नर को भेज रहे हैं? अगर आप यह जवाहर लाल नेहरू जी की भी बात को नहीं मानते तो सरकारिया कमीशन की रिपोर्ट को तो मानने के मुझे आसार ही नजर नहीं आते कि आप उसकी बात को मानेंगे।

मान्यवर, सभी लोगों ने इस तथ्य को स्वीकार किया, गवर्नर समिति ने भी यह सिफारिश की, सरकारिया कमीशन ने भी यह सिफारिश की कि अगर कहीं भी कोई ऐसा झगड़ा खड़ा हो जाये कि मिजोरिटी किसकी है, तो इसका टेस्ट हाऊस के अंदर होगा । The Governor is nobody to declare the majority of anybody, this way or that way.

इसलिए संविधान और जनमत के
4.00 P.M. आधार पर ही अगर हम चलेंगे, प्रदेशों की स्वायत्तता की तरफ ध्यान देंगे तब प्रदेश और केन्द्र दोनों मिलकर मजबूत रहेंगे, आपस का अविश्वास दूर होगा, मान्यवर, ऐसा मैं मानता हूं।

मान्यवर, राष्ट्रपति और गवर्नर साहब के सिलसिले में सुप्रीम कोर्ट ने भी यह फैसला दिया था—

The pronouncements of the Supreme Court and the dictat of the founding fathers establish conclusively that the Governor, as the head of the State, enjoys no greater discretion than does the President.

और प्रेसीडेंट जो हैं वह केवल केन्द्र की काउंसिल आफ मिनिस्टर्स के आधार पर काम कर सकते हैं । उनका कोई अधिकार नहीं तो फिर प्रदेश में गवर्नर्स के और अधिकार कहां से हुए? यह मैं सुप्रीम कोर्ट की और संविधान की बात बता रहा हूं।

श्री पवन कुमार बांसल : आप प्रेसीडेंट से बहुत कुछ करवाना चाहते थे।

श्री वीरेन्द्र वर्मा : जाते थे और अब भी जाएंगे । रुकेंगे नहीं ।

श्री पवन कुमार बांसल : अन कांस्टीट्यूशनल काम करवाना चाहते थे।

श्री वीरेन्द्र वर्मा : मान्यवर, मेरा आपके माध्यम से विनम्र निवेदन है कि राष्ट्रपति और राज्यपाल का पद विवादास्पद नहीं होना चाहिए । उनकी एक गरिमा होती है । उस गरिमा को

ध्यान में रखकर राष्ट्रपति और राज्यपालों को कार्य करना चाहिए । लेकिन आज गरिमा का कोई ख्याल नहीं रखता । राजनीतिक दृष्टि से कार्य करते हैं । मेरे जैसे आदमी को यह बहुत उचित नजर नहीं पड़ता । मैं इसे गलत मानता हूं, गलत समझता हूं ।

मान्यवर, जो संस्तुतियां इस कमीशन ने आपके सामने पेश की हैं । उनमें कल बताया गया कि 136 संस्तुतियां ऐसी हैं जिनको शायद आप भी स्वीकार करें । लेकिन अक्तूबर 1987 में इनकी रिपोर्ट पेश हुई । एक वर्ष से अधिक हो चुका है, 13 महीने अब तक हो चुके हैं । इन 13 महीनों में 9 स्टेट्स ने अब तक अपनी संस्तुतियां, अपनी टिप्पणियां आपको भेजी हैं । कृपया यह बताएं कि वे कौन कौन से 9 स्टेट्स हैं और इन 13 महीनों में केन्द्र सरकार की तरफ से शीघ्र कार्यवाही करने के लिए कौन कौन से कदम उठाए गए हैं ? अगर आप सरकारिया आयोग की रिपोर्ट को अमली जामा पहनाना चाहते हैं तो क्या यह उचित नहीं होगा कि आप मुख्य मंत्रियों को लिखें कि अपनी कैबिनेट के साथ मशविरा करके आपके द्वारा निर्धारित एक तारीख पर आए और आप यहां उनसे डिस्कस करें एक, दो दिन और आप अपना अंतिम निर्णय करें

कुछ लोग तो यह कहते हैं कि पिछड़े वर्ग की भलाई के लिए काका कालेलकर की रिपोर्ट सन् 1956 से आपके यहां पड़ी है । उसके बाद मंडल आयोग गठित कर दिया गया पिछड़े वर्ग की भलाई के लिए । वह भी रद्दी की टोकरी में पड़ा है । साढ़े तीन साल हो गए हैं । दोनों हाउसेज की संयुक्त प्रवर समिति बनी लोकपाल बिल के ऊपर । उसमें लाखों रुपए खर्च हुए । उसमें अब यह निर्णय लिया जा रहा है कि उस विधेयक को वापिस लेते हैं । लाखों रुपया खर्च करने के बाद निर्णय लिया जाता है कि उसे हम वापिस ले रहे हैं । दो आयोग बनाए-- काका कालेलकर और मंडल आयोग और वह आज रद्दी की टोकरी में पड़े हैं । जिस सरकारिया आयोग ने देश के सभी प्रदेशों में घूम-घूमकर सवा चार साल में यह रिपोर्ट तैयार की है, जिस पर लाखों रुपया खर्च हुआ है, मैं मानता हूं कि यह भी आपकी रद्दी की टोकरी में जाएगी ।

मान्यवर, मैं इस सद्भाव के साथ आपसे निवेदन करना चाहता हूं कि जिस तरह संविधान के निर्माताओं ने देश की एकता और अखंडता को मजबूत करने के लिए एक संघीय ढांचा प्रदान किया था . . .

उस संघीय ढांचे को मजबूत बनाने में आप कदम उठाएं, कमजोर होता हुआ नजर पड़ता है । हमारा देश जब आजाद हुआ था, यह दुर्भाग्य है इस देश का कि धर्म के नाम पर इसका विभाजन हुआ । पंजाब में भी आज धर्म के नाम पर इस देश के टुकड़े करने की योजनाएं चल रही हैं । अगर विभिन्न प्रदेशों में अविश्वास और असंतोष बढ़ता रहा तो यह देश की एकता और अखण्डता के लिए बुरा होगा । इसलिए मैं आपसे बहुत विनम्रता-पूर्वक यह निवेदन करना चाहता हूं कि सरकारिया समिति ने जो अच्छे सुझाव दिए हैं जल्दी से जल्दी उन सुझावों को आप स्वीकार करें । इन्टर स्टेट काउंसिल का निर्माण करें, नेशनल इकोनॉमिक डेवलपमैंट काउंसिल का आप गठन करें । मीडिया के मामले में भी विभिन्न प्रदेशों को आपने तो यह भी कह दिया कि हम सैकेण्ड चैनल नहीं दे सकते , ज्यादा खर्चा होगा । रोज टेलीविजन के नए केन्द्र खोल रहे हैं, खर्चे तो उसमें भी हो रहे हैं लेकिन स्टेट का आपके साथ केन्द्र से सहयोग विश्वास बना रहे और यह देश मजबूती से आगे बढ़े, इस दृष्टि से जो फाइनेंशियल रिसोर्सिज हैं उनके डिस्ट्रीब्यूशन में मीडिया के मामले में आपको इस प्रकार के कदम उठाने चाहिए जिससे कि विभिन्न प्रदेशों में अविश्वास पैदा न हो और गवर्नर्ज के रोल को भी, गवर्नर्ज की नियुक्तियों

[श्री वीरेंद्र वर्मा]

को भी आप इस प्रकार से करें कि उस पद की गरिमा बनी रहे, नहीं तो कल तो यह उठ ही रहा था कि गवर्नर्ज के रखने की कोई आवश्यकता नहीं, गवर्नर की कोई आवश्यकता नहीं अगर इसी प्रकार से वह कार्य करेंगे । 356 सैक्शन को हटाने की मांग भी बहुत से आदमी बहुत दिनों से कर रहे हैं क्योंकि उसका दुरुपयोग किया जाता है राज्यपाल के पद का भी दुरुपयोग किया जाता है । इसलिए कोशिश यह होनी चाहिए कि राज्यपाल के पद का दुरुपयोग न हो । राज्यपाल की नियुक्ति हर प्रदेश के मुख्य मंत्री से पूछकर के की जाए । योग्यतम, अनुभवी और श्रेष्ठ से श्रेष्ठ व्यक्ति को आप राज्यपाल बनाए और मुझे उम्मीद है कि अतिशीघ्र आप सरकारिया कमीशन की रिपोर्ट को देश और प्रदेश के हित में, देश की एकता और अखण्डता के हित में जिसके कारण श्रीमती इन्दिरा गांधी जी ने जब चारो ओर देश में असंतोष की लहर उन्हें दिखाई दी तो उन्होंने मार्च सन् 1983 में संसद् में घोषणा की थी और जून में सरकारिया कमीशन का गठन किया । वह गठन भी हुआ, बना भी संस्तुति भी दी । बस, उस संस्तुति की ओर आपको कदम उठाना चाहिए, उसको अमली जामा पहनाना चाहिए उसी भावना में जिस भावना के मातहत उस आयोग का गठन किया गया । मुझे उम्मीद है कि आप ध्यान देंगे ।

SHRI MADAN BHATIA (Nominated) : Respetced Vice-Chairman, Sir...

SHRI GHULAM RASOOL MATTO: This is his first speech after re-nomination.

SHRI ALADI ARUNA alias V. ARUNACHALAM: Oh, this is his maiden speech.

SHRI MADAN BHATIA: The very subject of Centre-State relations seems to indicate as if there is a dichotomy between the States and the Centre. It gives an impression as if the States within the Republic of India represent some sub-nationalities and the Union of India is the controlling authority for the sub-nationalities. One hon. Member, Mr. Basu, took up the cudgels in the name of autonomy of States. I respectfully submit, Sir, the very concept of autonomy of States is repugnant to the political history of India. Unlike the United States of America, the Republic of India was not created by the unification of States. It is the States which were carved out of the Republic of India, which is the truncated ancient Bharat. The reasons for the creation of the States within the Union of India were partly geographical, partly historical and partly, also, political and administrative. I say geographical because from ancient times, because of the huge size of India, India has been governed by division into various administrative units. This was so during the days of Ashoka, this was so during the Mughal period. And what happened during the British period? How did the provinces come into existence? The provinces, by and large, followed the course of the conquests by the British. If Bengal was created or Punjab was created or Bombay State was created the boundaries were determined by the course of the British arms as they were spreading, in driblets, across the four conners of India. That was the position before the 1935 Act. India was also divided into various units because administratively, as I have already said, it is not possible to govern a huge coun. try like India from one focal point as it is in the case of Great Britain. If you remember this political history of India, then all thoughts of the autonomy of States are contrary to the very history and the very concept of the Republic of India.

Sir, it has also been said by the honourable Members on this side that there is over-centralization of powers at the Centre. In the first instance I would like to repudiate the statement:, because it seems to suggest as

H tnexe is an unconstitutional en. croacnment by we union on me povvcrs of me estate, I cesjset-Uuiiy suuuut, ou, that au the exampres Wien are sougnt to be urge in support of tnis aigumenc are examples oi tne anegea or supposed aouse o* power DUI not encroacnment or power £>y the umon on tne powers ot ihe States unaer tne Constitution. The two subjects are totally ainer-ent. One, unconstitutional encroacnment by tne union on tne Constitutional powers of tne State and, the otner, the abuse of the rightiuiiy vested Constitutional powers by the Union as against the States. Those examples do not hold good so far as this argument is concerned, tnat there is over-centralization of power in the Centre.

Having said that, Sir, I would like to ask cue honourable Members on this side, when they are untuning the flag m the name of autonomy of Sates for toe federal structure of India and are using the argument of over-centralization of powers at the Centre, which federal structure do they have in mind so far as the entire world is concerned? I suppose that the United States of America is their ideal example of federal democracy. I believe, they do accept that *so* far as the United States of Ame. rica is concerned, it denotes an ideal, constitutional, federal structure. But, let me remind this to hon. Members on this House. I shall not go into other federal democracies, but I could. The U.S.A., Australia, Canada and small countries like Switzerland are all federal democracies. But I shall confine myself to the United States. I respectfully submit, Sir, the history of the United States, as of all the federal democracies in the world, is the history of accentuation of powers of the federal authority at the expense of he States. The imperative of modern economics, modern defence and social welfare activities of the modern State have made this process inevitable.

Confining myself to the United States, I would line to say, after independence from Britain, the first Constitution that the United States of America adopted to itself gave it a confederation. It did not last even for six or *seven* years. Ultimately, the founding fathers of the U.S. Constitution felt that if the United States is to last the powers of the federal authority must be enhanced and that the confederation must go and that i[1] must be replaced by a federation which meant greater unification of the country. It is under these circumstances that the present Consti-ution of the United States came into existence. But after the experience of two presidencies, George Washington uttered prophetic words which are today applicable to India. Sir, with your permission, I shall quote what he said after his experience of a federal constitution in the United States which had been formed as a result of the unification of the States unlike the Republic of India. This is what he said;

> "The unity of Government, which constitutes you one people is also now dear to you. It is justly so, but it is a main pillar in the edifice of your real independence, the support of your tranquility at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly price."

But then he utters the warning;

"But, as it is easy to forsee that from different causes and from different quarters much pains will be taken, many artifices employed to weaken in your minds the conviction of this truth as this is th-3 point in your political fortress against which the bateries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immencevalue of your national union to your collective and indivi-

LSiiri Madan Bhatia]

dual happiness that you should cherish a cordial, habitual and immovable attachment to it."

Then, what happened in the United states? The whole of the first pa'rt of the 19th century, in spite ox the warning given by George Washington, was full of conflicts between the States and the federal au thority. Ultimately this led to a civil war. It was the foresight of Abrahm Lincoln who stood up for the unity of the United States as against the demand for greater independence by the southern States, and he succeeded in meeting that particular challenge. And the Supreme Court of the United States Put its stamp on the political and *he historical development as a result of this civil war in the United States. In one judgement the U. S. Supreme Court said:

"All the provisions of the U.S. Constitution point towards an in-destructible union of indestructible States"

Thereafter, Sir, the history of the United States has been De history of accentuation of powe'rs of the federal authority at the expense of the States. First it happened during the depression in early 1930s.

That will be very relevant because no developing country which has great economic problems and no newly independent country which has serious threats to her security, can afford to have a Government at the Centre which is not a strong Government. When there was depression, the only way in which President Roosevelt felt that the sufferings of the people of the United States throughout the United States can be alleviated was that he must assume the powers which will extend to all corners of the United States. He brought forth economic and social legislations under the name of 'New Deal'. All those pieces of legislation were struck down by the Supreme Court as an uneonstitutionsal encroachment on the powers of the States. He went to the people on the slogan of the 'New Deal'. He won the election. He brought forth the same pieces of legislation and then he threatened the Supreme Court: I shall bring the court packing " Bill, I shall pack the Supreme Court with the judges of my choice in order to push through my legislations, because this was the only way to alleviate the suffering of the people during the depression viz. the enhancement of powers of the national Government. He did not succeed in pushing that through, but the Supreme Court saw the writings on the wall and those very judges wno had struck down those Bills as unconstitutional, as encroachment on the powers of the States, upheld those pieces of legislation. Since then the United States has not looked back so far as the accentu-tion of the powers of the federal au thority is concerned.

I will just give one more example of the period of depression. Agriculture is a State subject. But for the national farming policy, which was put forth by President Roosevelt /eithe whole of the United States, agri culture would not have risen out of the morass of the depression. He saved the country and the Supreme Court then cooperated with him.

One way in which the powers of the federal authority in the United States have been enhanced is the judicial interpretation of the Contsi-tution. In 1935, there was another important ease which is called the gold control case. By its judgment the Supreme Court enhanced 'he banking powers of the federal authority which were inevitable in the circumstances of the developing historical, economic and political condi tions.

Then the other way in which the powers we're enhanced was by resort to what is known under the US Constitution as war power, preparation for defence. War power does not ne-

cessarily mean that the wa'r is on and the national Government assumes power. It is assumed under the Constitution of the United States that for the purpose of defence and for the preparation of war the national Gove'rnment has all the powers which may be necessary to make the country ready and prepared for meeting the challenges to he$_r$ security.

In 1942 another judgment was deii vered by the Supreme Court of the United States by extending the meaning of what i$_s$ known as inter-State commerce. Now, inter-State commerce is a Central subject a federal subject. And they interpreted inter-State comme'ree to mean that any activity in any State, which will have its effect ©n the people of the United States in general, can be reachej by the national Government through its own authority. This is the history of the federal democracy, which...

PROF. C. LASHMANNA (Andhra Pradesh): Depression.

SHRI MADAN BHATIA: I have gone to 1942 and the hon. Member should know in 1942 there was no depression. He is still stuck up in 1932.

Thi$_s$ was the background of the political and constitutional developments against which the Constitution makers adopted the Constitution of India in its present form. There was one gentleman in the Constituent Assembly and a very learned historian who stood up and went even to the extent of saying that considering the defence requirements of India, considering the future economic requirements of India, considering the requirements of India as a country which has to develop from scratch into a fully developed nation, it is absolutely necessary that th$_e$ National Government or the Government of the Union must have as much powers, even unitary powers, if necessary, as possible. He gave a memorandum to the Constituent Assembly and I shall just quote a few lines from his memorandum. He was Mr. Panicker and he said:

" Th$_e$ object of this note is to examine the effect of modern defence problems on the Constitutional structure of India."

Prior to thi$_s$ h$_e$ has said, I quote:

"The main function of the Government will be to raise the standard of the common man, to educate him, to provide him with the medical facilities and to create in all a loyalty to the Union without which the whol$_e$ structur$_e$ will breakdown. To place the emphasis on the rights of the units as a federal system must inevitably do and to entrust the effectuation of those right$_s$ to th$_e$ courts is to put a premium o$_n$ backwardness and to invite disaster."

And then h$_e$ says, I quote:

"What is the problem of defence today? As a recent authority on military matters had stated 'war has now definitely passed into an industrial phase of the economic history. The industry of wa$_r$ combines two techniques, the technique of peace which supplies its resources and the technique of actual warfare.' If India has to face the issue of defence squarely, that is. both in its peace organisation involving industrial planning creation Of national technical efficiency o$_n$ a larg$_e$ All India scale, higher research in sciences and what is more an integrated defence force, then a unitary Central Government for British India is unavoidable."

He was right. H$_e$ was a historian. He wa$_s$ a jurist. But considering the political conditions in the country, particularly, because of the 1935 Gove'rnment of India Act, th$_e$ Constitution-makers decided t$_0$ strike a bal ance and today the demand is being made to disturb 4hat balance. This demand, Sir, is nothing but swim-

[Shri Madan Bhatia]

ming against the currents of political and Constitutional history all fese world over. It has been suggested by the hon. Member on tms siae tnat the deployment of the forces of the Union within the States is an unconstitutional or undesirable encroacu-ment upon the powers of the States. Sir, I shall ask the hon. Member, lee him name a single federal democracy anywhere in the world in which the federal authority does not have this power. If the Union derives this yo-wer it is from, article 355 of the Constitution of India; which says "'it shall be the duty of the Union to protect the States against the external aggression and internal disturbances." This article in the Constitution was somewhat modelled on article 4 of the United States Constitution which says, "The federal authority shall ensure the Republican form of Government in every State and shall on the request of the Legislature of the State or the executive of the State if the Legislature is not in session shall protect the State against the domestic violence." Kindly see, Sir, the distinction between the two. Article 355 does not put this rider of the 'request'. Article 4 of the U.S. Constitution puts this rider. But what happened to this rider in practice. In Deb's case, it is a well-known famous U.S. case, the case of the U.S. Supreme Court, this restriction contained in Article 4 was almost nullified and I shall just quote a few lines from ihat Judgement. It was Deb's case and the U.S. Supreme Court said;—

> "When citizens of the same State are in arms against each other and the constitutional authorities are unable to execute the laws the interposition of the United States must be prompt or it is of little value. No trace is to be found in the Con-titution of the United State of any intention to create dependence of the Union On those of the States for the execution of the great powers assigned to it. It is argued that preservation of peace and goood order is not within the powers confided to the Government of the United States but belongs exclusively to the States. Here again, we are met with the theory that the Government of the United States does no rest upon the soil and territory of the country. We hold it to be an incontrovertible principle that the Government of the United States may be means of physical force, exercised through official agents, execute On every foot of the U.S. soil the powers and functions which belong to it. This necessarily involves the power to command obedience to its laws and hence the power to keep the peace to that extent."

And the demand is heing made by holding up before this Hon'be House some nebulous ideal of a federal structure that the deployment of the forces of the Union within the States is unconstitutional Or undesirable. I respectfully submit, Sir, every citizen of India looks up to the Union for the protection of his fundamental rights and for the protection of the rights of every citizen of India, the writ of the unimi must run on every foot of the Indian soil.

Sir, the last point that has been made on this side is with regard to the position of the Govenor. I submit, Sir, the office of the Governor is a very august office. Every Governor must by his conduct,, by his demeanour, by his behaviour live up to the august office which he holds tn command. But the aberration of a particular Governor cannot blind Us to the consitutionai position of the Governor under the Constitution of India. The role of the Governor under the constitution of India is a dual role. On the one hand, he is the constitutional head of the executive of the State. But he has another role to play. He is the symbol of the Union within the State. He is the eyes and ears of the Union within the State. *(Interruption)* No agent is totally different, I respectfully submit, from being ears and eyes of the Union. He

is not an agent of the Union. I respectfully submit, Sir, if the duty has been enshrined in the Constitution so far as the Union is concerned that the Union shall ensure that its laws are obeyed throughout the country, if that duty has been cast upon the Union to ensure every State against the internal disturbances, if the duty has been cast upon the Union—and they cannot say, it should not be cast upon the Union— that the Government of every State must be carried on in accordance with the provisions of the Constitution, it is essential and in the very nature of things that the Union must have its own symbol, its own eyes and ears within the States and that is the role, the second role, which the Governor is required to play. Sir, one suggestion was made that so far as the Governor is concerned, he is totally redundant and •the very office of the Governor should be abolished. It is an astounding suggestion. Let us assume that there was only one function to be performed by the Governor, namely the Constitutional head of the executive of the State, Now, so far as the State Government is concerned, a situation may arise that it is a coalition Government and the coalition breaks and the Government is reduced to a minority. Who has to decide who will replace the minority Government? Not the Chief Minister who has been reduced to a minority. He is not going to sit in judgment on his own fate. Is that the suggestion from this side that the Government which has lost the majority should decide whether it nas lost the majority or it has not lost the majority? It is in a situation such as this that the role °f the Governor becomes most vital even within the sphere of his being the Constitutional head of the State.

THE VICE-CHAIRMAN (SHRI B. SATYANARAYAN REDDY); It should be decided by the Assembly.

SHRI MADAN BHATIA: If you want to raise that argument, T did not want to go into this. I am respectfully submitting, Sir, this is a separate argument. It is suggested that the Governor should be there. Some hon. Member said that *k^e Governor must go altogether, lock, stock and barrel. It is conceded that the Governor must be there. But he will perform his function in a particular manner, namely, if the Government have lost the majority, he should not decide it on his own except by voting on the floor of the House. I will draw the attention of the hon. House to one very famous precedent. In Western Nigeria, the Constitution of which had been framed on the lines of the Indian Constitution, so far as the States are concerned, the Assembly had 122 members and 66 members signed a memorandum and gave it to the Governor saying that they withdrew their support to the Government. There was absolutely no controversy that in fact the 66 members had signed. No one had said that his signature had been forged. No one had said that he had been impersonated. They all admitted and the Chief Minister admitted that the 66 signatures were genuine and valid. But the Chief Minister said to the Governor. "You have no constitutional authority to ask me to resign without taking a vote on the floor of the House." The Governor declined to summon the House and since the Chief Minister declined to resign the Governor dismissed him. He filed a writ petition. The writ petition was decided against him by the Nigerian courts. Nigerian courts, under the Constitution, were subject to the Privy Council of Great Britain. The matter went to the Privy Council in Great Britain. A Bench of the Privy Council was presided by five Law Lords of the highest judicial and constitutional acumen and I want to quote what Their Lordships said:

> "In democratic politics, speeches or writings outside the House, party meetings, speeches or activities inside the House short of actual

[Shri Madan BhatiaJ voting, are all capable of contributing evidence t_0 indicate what action this or that Member has decided to take when and if he is called upon to vote in the House. And it appeared to Their Lordships most unreal to try to draw a dividing line between votes °n the floor of the House and other demonstrations where the issue of support is concerned" and dismissed, the writ petition of the Chief Minister. *(Interruptions')*.

I respectfully submit, Sir, we are discussing the Constitution. We are not discussing A, B or C. We are laying the foundations of the conventions which the coming generations are likely to follow. What falls from our lips before this honourable House today may be a matter of precedents in the interpretation of the Constitution for years to come. Let us take the debate in that spirit. We are expounding the Constitution and the Constitution of a nation is a political document which represents and reflects the aspirations and the ideals of the nation and continues to reflect the ideals and aspirations of the nation for generations to come. It is in that context that this judgment is relevant. I respectfully submit if a Chief Minister has definitely iost his majority, the constitutional position is, and it is accepted by the Supreme Court in India, that the conventions and the Constitution, the constitutional conventions, of Great Britain are integral part of the Constitution of India, and the conventions of Great Britain are that if the Prime Minister has definitely lost the majority, he has no right to ask the Queen to dissolve the House, h_e has no right to ask the Queen or the King to call the House and take a voting on the floor of the House; he must immediately resign. If there have been aberrations in the constitutional working or the constitutional machinery of the States in this country, it is not so much because of the aberrations on the part of the conduct of the Governors, it is on account of the aberrations on the part of the Chief Minister who lost the majority but refused to resign on the pretext that voting must be taken on the floor of the House, they wanted the doors to be opened to them for horsetrading. Then the Assembly is convened and a voting is taken. It thi^ is the convention which is followed, it will lead to horsetrading on the part of the Chief Ministers and the Governor shall become a party to it. I respectfully submit that such $_a$ constitutional convention will fly straight into the teeth of the constitutional position.

With these words I respectfully submit that so far as the Indian people are concerned, they want food, they want housing, they want clothing. The problem before India today is not dilution of the powers of the Centre; the problem before the people of this country is devolution of the powers to th_e grass roots, to the people at the lowest levels, to the local Governments at the lowest levels, ilt is the social and economic purpose of the people ^{a}t the grass roots which needs to be enhanced. What has been the performance of the States? Once upon a time forests were a State subject. And what happened to the forests? The forests have been decimated. Once upon a time education was exclusively a State subject. And what happened to education. Education wa_s totally fragmented in the country. Therefore, I respectfully submit the problem before this country or the issue before this country is altogether a different problem and a different issue. And I am beholden to the honourable Prime Minister of this country that he ha_s raised his voice for the poor, for the people at the grass roots; he has raised his vcice for devolution of power to the people at the grass roots to determine their social and economic destiny for the future. Thank You.

SHRI ALADI ARUNA alias V. ARUNACHALAM: Since India is a multinational, multilinguistic, Multi-

cultural, multiracial, multireligious and mostly caste-ridden country it was rightly felt by our national leaders, subsequently by the founding fathers of our Constitution that a federal constitution alone will keep our country one and united. To the best of my learning, the Congress was committed to the policy of federalism. That is why it strongly opposed the Indian Act of 1935 on the ground that it did not incorporate the clause of autonomous States.

Sir, in the conference held in Haripura in 1938. a resolution was passed by the Congress Party, and, Sir, with your permission, I would like to quote it:

> ' The only kind of federation that can be acceptable to the Congress is the one in which the States participate as free units enjoying some measure of democratic freedom as the rest of India."

Sir, the policy of the Congress in those days was in consonance with the base principle of federalism and that is why when Pandit Jawaharlal Nehru moved the Objectives Resolution in the Constituent Assembly on the 313th December 1946, he talked of autonomous States with residuary powers to the States. Sir, I would like to quote what he had mentioned in the Objectives Resolution;

> "Within the said territories, whether the present boundaries or such others as may be determined by the Constituent Assembly and, thereafter, according to the law of the Constitution, the States will possess and retain the status of autonomous unitg together with the residuary powers."

Thii is the objective of the resolution in the Constituent Assembly. But. unfortunately, within two years, our founding-fathers of the Constitution, nullified this very objective.

Sir, the radical change and the total departure from the federal character have now caused insurmountable impediments to the democratic functioning of the States at all levels. The States are very much frustraied and they are not allowed ^o function according to I he democratic norms. They are under the threat of President's Rue. That is why, m 1963, Dr. Anna, when he participated in a Bill, very clearly stated:

> "What I want to say is that lhe working of the federal structure is such that the Stales are feeling more and more frustrated, and their demand ig to make the Union Government think that there should be a review of the Constitution, a reappraisal of the Constitution."

So, the demand for the autonomy of the States, for the decentralisation of powers and for more powers to be given to the States has come from various political agencies and people and. because of the pressure from the various political parties, the Centre came forward to constitute a Commission under Mr. Justice Sar-karia. Even before I deal with the Sarkaria Commission's recommenda-tiong and observations, I would like to mention that the demand for more powers to the States was first started by the Tamil Nadu Government under the Chief Ministership of Dr. Kalignar. He constituted a Committee known as the Centre-State Relations Inquiry Committee under the chairmanship "of Mr. Justice P. V. Rajamannar, with two other eminent people, that is, Mr. Justice Chandra Reddy' and Dr. A. L, Mudaliar. We know very well that Dr. MGR constituted another committee to examine in depth the question of Centre-State relations. The House is aware of the ingredients of the Anandpur Sahib Resolution. The West Bengal Government also submitted a well-drafted memorandum to the Government demanding more powers to the States. These are the circumstances

[Shri Aladi Aruna *alias* V. Arunachalam]

and these are the factors which compelled the Government to constitute this Commission.

When this Commission was constituted, we congratulated this Commission with the hope that it might consider the demands of the States favourably. But, contrary to our expectations, the terms of reference of this Commission have nullified the very object of the Commission. Sir, the demand of the States and the federal people were to give more powers to the States. But the Commission was directed to find a solution within the existing Constitutional framework. That is why, I say that the very reference was dangerous to the very objective of the Commission. Sir. I would like to say that this Commission has not satisfied th$_e$ aspirations and demands of the States. I would like to say that it has more or less corroborated the views and stand taken by the Government in the past. It has expressed it$_s$ loyalty rather than making a re-appraisal of the Constitution. It has totally failed to enquire int the inherent rights of the States in a federal system. It has deliberately ignored to examine how the present arrangement is making inroads into the federal system of our governance, how the States have been reduced to merely administrative units, how the colonial way of controlling the States has been encouraged and how the imperialistic character of the Centre is encouraged by the Government. *(Interruptions)* Imperialistic character of your Government—that is what I say.

Sir, the unity of the country is important and paramount. Ther$_e$ is no difference of opinion or» that. But it is totally false and incorrect t say that adoption of federal system is dangerous to unity. The idea of this mechanism is to integrate the country. It is a political discovery by political scientists. It is! a mechanism. If this doctrine would not have been found by political scientists, then we would have had many more States than what we see now. So, the very objective of federalism is to integrate the country, to keep the country united. So, nobody is against the unity of the country. My dear friend, Mr. Madan Bhatia, confined himself to the United States. Fortunately he did not travel to Pakistan. I would like to remind him that in the United States, the Central Government or the National Government has no right to take away the administration of the States. In a federal set-up, the right to intervene is an acknowledged principle. I admit that. But this right to intervene in the affairs of the States is entirely different from th$_e$ right to rule. They rule the States by putting them under President's rule. What do we see i$_n$ Tamil Nadu? Mr. Chidambaram is rulling the State. But there is no mandate given Mr. Chidambaram. Our people have expressed theif wish against the Congress Party at the Centre.

SHRI V. NARAYANASAMY (Pondicherry); Don't politicalise the issue.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: Had Mr. Buta Singh been here, I would have taken his name. My point is that the Centre has a right to intervene. I am not against it. But the Ceritre does not have any right to rule the State. If you go through the history of Article 356, you will find how many times the States have been under the control of the Centre. Is there any justification for it? Is there any reason for it? Firstly, we must examine whether a federal system would be successful without Article 356. What is the political devise adopted in other federal countries? Let the Minister give a reply to this House. Is there any provision in the Constitution of the United States to take over the administration of a State? Is there any article in the Constitution of Australia to take over the States? Let them explain it to the House. The

only exception is Pakistan. Of course, in this matter we are equal to Pakistan. Sir, with great pain, i want to say that we had been fighting for the freedom of the country. You see that there are three wings in administration. One is the judiciary. The other one is executive and the third is legislature. Judciary is under the control of the head °f the judiciary, the Chief Justice. Executive, virtually or constitutionally, is under the control of the Governor. Legislature is under the control of the Chief Minister. Sir, the pathetic posit is that the Chief Justice is from another State, the Governor is from another State. These two people have no knowledge ahout the regional language, no knowledge about the regional history, no knowledge about the people. But they are the heads of two wings.

SHRI DHARANIDHAR BASUMATARI: They are Indians.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: I am not denying that they are Indians. But they have no knowledge of the people there. (Interruption) Sir, in what way are we superior to the British people? During the British regime, who was the Chief Justice? We saw some James or some Sheraton. What we see now? We see some Sharma or Verma. We do not know who they are. My point is their knowledge about the State is poor. So, Sir, this is another colonial way of controlling the State. You are not serious about the administration and the benefit to the State. You want to control the Executive. You want to control the Judiciary. That is why you are nominating a person from outside. Is it necessary? Is it desirable? I want to know this. What has the Sarkaria Commission stated? It said that neither it is desirable nor is it feasible to take away the discretionary power of the Governor. Sir, *J* would like to ask that when other federal Constitutions or other countries with a federal structure are functioning successfully without such power, why is it not possible in India. That is my demand. Therefore, in this matter, the Sarkaria Commission has totally failed to protect the interests of the States, sir, take the office of the Governor. We can impeach the Chief Justice, we can impeach other Judges, we can remove the Prime Minister by a no-confidence motion, we can remove the Chief Minister, but no action can be taken against the Governor. Why is allowed free from scrutiny? Why? This is a surreptitious way of controlling the State. You want your puppet, you want your stooge, you want your agent. Therefore, you allowed him. He is always at your mercy. He holds office during the pleasure of the President. What do you mean by 'Pleasure'? What pleasure? It is not the pleasure of the President. It is the pleasure of the Party at the Centre. So, is it necessary? Is it with'n the federal principle? That is why, Sir, whatever is necessary within the area of protecting the rights of the States, the Sarkaria Commission has totally failed in that respect.

Then, Sir, before I conclude, I would like to remind that the Sarkaria Commission has totally failed to respect the sentiments of the non-Hindi people. We expected that they would recommend something for the continuance of English in administration. Instead, they advocated Hindi for its continuance. Sir, we totally oppose this. Since time does not Permit me much, I would like to say that as- far as this Commission Report is concerned, it submitted against the interests of the States, against the interests of the non-Hindi people, against the very essence of democracy.

With these observations. Sir, I conclude my speech.

SHRI KAPIL VERMA (Uttar Pradesh); Sir, I am thankful to you for giving me am opportunity to express my views on an important subject like the Sarkaria Commission Report.

[Shri Kapil Verma]

[The Vice-Chairman (Shri Jagesh Desai) in the Chair].

Sir, the Sarkaria Commission Report is a highly fruitful Report. It is a very serious document which has taken into account the totality of the political life in the country. And it has made some very important recommendations though very wisely it has not touches the basic structure, the fundamental structure of our Constitution nor has it made any major or radical institutional changes. Sir, if we go through the Report, we will find ihat the main thread which is running through the entire Report is unity and integrity of the country. That is why, Sir, the Sarkaria Commission has laid stress again and again on a strong Centre and at the same time strong States. In fact, our founding fathers were very wise people. When they were framing (he Consttut,ion, they were foreseeing the events. They were very tall people and they knew what was going to 5.00 P.M. happen They could envisage and so they envisaged that it is a strong centre and a strong state that was required and there is no contradiction between the two. They must live in hormony. They must work in hormony. That is the spirit of our Constitution.

Sir, if at the time of framing of our Constitution there was need for a strong Centre, there is more need for it today. If you look around in the country, you find fissiparous tendencies, we find divisive tendencies. we find local patrioties, we find regional chauvanism and there are certain forces which are interested in breaking clown the unity of the country, dividing the country. There ,are forces, outside forces, foreign countries which are interested in damaging us. will not take their names. Our Prime Minister is going to China. We want this visit to succeed. We will not Say anything which will spoil the atmosphere but we know what China is up to, what is happening. We also do not want to say anything which may in any way embitter our relations with Pakistan. We wish them well. There have been democratic ejections in Pakistan and we hope that whichever Government comes into power, we will deal with them. Th's is our official stand an we have no preference but as we aP know in our heart of hearts we want a democratically elected Government rue over Pakistan because then we will be friendly with them. So, in any case we find that there are, both internally and externally, threats facing the country and there is any need for a strong Cen-ire. it is today. In fact there is a greater need for it today than was at any time before.

If you look at the world around us, take a look at the USSR, the movements there are perestroika and glassnost. We are seeing what is happening in Azerbaijan and menia. We are seeing what is happening in Estonia. The people there are rising in revolt. They are trying to assert themselves against the Centre. The French speaking Quebec is demanding secession. We also know what is happening in the United States. What happened in the Past-Eisenhower had to send has forces to Dallas to enforce civil rights. There was civil war there. In U.K. he IRA batt'e goes on. All the world over this is the phenomena.

If you want to maintain the unity and integrity of the country, you will have to have a strong Centre. There is no escape from it and I am very sure, all of us, who sit here are patriots, nationalists, and all of us in our heart of hearts awant a strong Centre and we also want a strong State at the same time with all the powers. Well, there is no quarrel about that. But not at the cost of the unity and integrity of the country. The Consitution has functioned well. And I see there have been-

tendencies here and there, but they have been solved and I am very confident aboui the future. I am very optimistic about the future of our country, that whichever Government is i_n power jn whichever State, ultimately they will all solve the problems and We wil sit together and solve our problems.

Sir, a lot has been said about the Governors and the Sarkaria Commission has made certain recommendations. Well, there is $_{no}$ question about the abolition of Governorship. My learned friend, Mr. Madan Bhatia, has already replies t_0 it. Otherwise, there will be vacuum. There is no provision fou any other person to succeed him. I do agree that the Governor must be really a very competent, able, objective, knowledgeable and experienced person. We must ensure that he is of a proper calibre. We must also ensure that he does not take interest or sides in local politics of the State,_ He must be put on a very high pedestal and everybody should learn to respect him because he is not only the symbol of the Central power, he also looks after the basic interests of the people, that is, maintaining unity and integrity of the country. In the present situation therefore while he will not elaborate the point, there is certainly need for a Governor who looks after basic interests of the country.

But I do not agree with_certain observations of the Sarkaria Commission. For example, they have said: "He should be a person who has not taken too great a Part in politics generally and particularly in the recent past". What kind of Governor then we want, is the question,

SHRI BAHARUL ISLAM (Assam): too great is too vague an expression.

SHRI KAPIL VERMA; Do we want bureaucrats? There is a tendency to appoint bureaucrats. I am opposed to it. There is a tendency to appoint judges and Chief Justices. I am opposed to it. As a friend here said, we are discussing something which will affect the future generations also. We are attempting to review the Centre-State relations after a very long time and so we have to be very very objective. We have to depart from the party angle. We have all to speak as true Indian in this august House which is the Upper House of Indian Pardament. I would say that We must have people of very high calibre. But why should we put a ban on a person who has dabbled in politics? If an ex. Chief Minister, if an ex. Minister if a person of a very long experience, if a Minis' er if a very senior Member of Parliament is available, we should take advantage of his maturity. There should be no ban on appointing such a person to that office. Again I do not agree with the observations that 'it is desirable that at politician from the ruling party at the Union is not appointed as Governor of a State which is being run by some other party or a combination of other parties'. This is not practicable, in my opinion, with the proviso, as i said that I do expect that when a person becomes a Governor then he forgets to which political party he belongs and when he sits on that high pedestal, he must take objective view of the situation. In any case, the Commission suggests a Constitutional amendment. I would say, don't bind the choice of the Centre by writing it into the Constitution. All these good points must be taken into consideration and we should have a convention that we will not appoint any person of a low calibre or a person who is not expected to deliver goods.

Many things have been said about President's rule. It has also been said that there has been abuse of this pro-

[Shri Kapil Verma]

vision of imposing President's rule. May I remind my friends opposite of what happened in 1977 and who started dismissing state Govrenments in a bunch. As many as nine Governments were dismissed by the Janata Government in 1977, and this was repeated in 1980 by this side. But the whole point is that President's rule has to be imposed if there is no alternative, if the law and order situation breaks down, if there is no stable government possible, if there is need for a breather, for cooling of time and that has to be decided by the President on the report of the Governor. But I do not agree with the Sarkaria Commission that the reasons given by the Governor should be put down in the Proclamation imposing President's Rule in a particular State. This will be wrong. If you do that, it will become justifiable. The courts will come into: the picture and they will pass stay orders. They will go into the reasons, whether the reasons are correct or whether the reasons are justified or not. Therefore, I do not agree with this.

In regard to Ordinances, there has been a lot of hue and cry about it. I would, in thisconnection, invite the attention of the House to the findings of the Wadhwa Commission. The Commission found that in Bihar both the Janata and the Congress Governments were guilty of this. For years, five years, six years, seven year?; they went on promulgating Ordinances and renewing them. In mv opinion, Ordinances should be repromulgated or renewed only in very exceptional circumstances. It is the responsibility of the State Governmnets to quickly place the relevant Bills before the Legislatures. I have been covering Leg'slatures for the ast forty years. As a iournalist, I have found that in the onlir in verv excentional circumstances. Ordinances were being issued. But now unfortunately, it has become a matter of course it has become a matter of routine. Ordinances are oromulgated and thev are again and again renewed, their life is extended. It is a mockery and misuse of the provisions of the Constitution. I am sure, the hon. Minister will look into this and will make it impossible for the State Governments to do such a thing. Recourse should be taken to this only in emergencies and in very tight situations. This provision should not be misused.

About the all-India services. I am surprised at the demand being made in certain quarters. A memorandum was given to the Sarkaria Commission by eome people that this should be abolished or that States should be allowed to opt out of it. This will strike at the very root of the principle of unity and integrity of the country and it is against national integration. I am, therefore, glad that the Sarkaria Commission has rejected it. *{Time bell rings)* Just two minuses, Sir. As far AIR and Doordarshan are concerned functional freedom is "there. I do not think the time is ripe for Corporation being formed.

As far as the Planning Commission is concerned, the demand for giving it autonomy or giving it an exhalted statu* is, to my mind, meaningless. The Planning Commission has functioned well until sometime ago, right from the days of Pandit Jawaharlal Nehru. But in recent years, I am sorry to observe that it has not been functioning very efficiently. In fact, plans are being delayed. No serious attention is being paid and, naturally, the dignity and the status of the Planning Commission has suffered.

Before I conclude, I will quote what the Administrative Reforms Commission has said and I will end my observations with this paragraph:

> "The Constitution is flexible enough to ensure its successful working irrespective of whichever party mav he in power provided those who are in power mean to work it and not wreck it. We are con-

vinced that it is not in amendment that the solution to the problem of Centre-State relationship is to be sought but in the working by all concerned in the spirit in which the founding fathers intended them to be worked. There is no other way of ensuring a cordial and friendly relationship between the Centre."

I think, our Constitution is flexible enough. The provisions are good. With goodwill in the States, basic patriotism and the urge for unity being there we will be able to solve all our problems an^ India will grow stronger everyday. Thank you.

[The Vice-Chairman (Shri Jagesh Desai) in the Chair].

SHRI GHULAM RASOOL MATTO: Mr. Vice-Chairman, Sir, when we are discussing the Sarkaria Commission Report I had thought that it would have been better if the Govern ment's views on the Report were made available to us for discussion. The Report was presented to the Gov-ment about a year back but it seems the Government does not want to take a view right now _____

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): First they want to hear an overall view.

SHRI GHULAM RASOOL MATTO: Obviously, the Government want to take a broader view. If that pre-sup-position is correct, if the Government has to take into consideration the view point of the pubic, the Members of Parliament, the State Governments and. others, then the Government should also take into consideration along with the Sarkaria Commission Report, the memoranda submitted by the State Governments to the Sarkaria Commission. There may be many points in the memoranda of the different States that had been presented before the Sarkaria Commission. So, I would submit to the Government that they should reconsider the memoranda submitted by State Government and in this context I would submit to the Government that the Memorandum submitted by the Government of Jammu and Kashmir should also be taken into the Sarkaria Commission Report.

Now, while discussing this Report, we have to take two things into consideration. Firstly j we must take the Preamlbe of the Constitution into consideration. The Preamble says:

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR DEMOCRATIC REPUBLIC..." On this there can be no compromise. Each one of us or any individual who has to make any comment on this Report, cannot ask for a compromise on this basic principle which has been anshrined in the Preamble of 'the Consitution.

The other aspect which has to be taken into consideration and to which hon. Mnister also made a special remark, is the integrity, sovereignty and unity of the country. As I said, on the first point regarding the Preamble of the Constitution there can be no compromise. On the second point, however, a view can be taken looking at it from a different angle. For instance, there may be some parties or individuals who may feel that only a centralised type of constitution or a unitary type of constitution can ensure unity, integrity and sovereignty of the country. Conversely there may be some who may feel that devolution of entire power to the States would ensure unity, integrity and sovereignty of the country. So, a via media has to be struck which can give the desired result. While considering these thing. I will first take the question of Governor. I feel that though we are also one of those who are aggrieved of the Governors at some point of time, I do not agree with the point raised by one party in this House that the office of the Governor should gO.

[Shri Ghulam Rasool Matto] This is Utopian thinking and I do not think we will be able to achieve this. What is desired, therefore, is that we must see to it, as Mr. Kapil Verma has also stated, that the institution of the Governor should be such as will inspire the admiration and respect of the people of that State. In this connection, sir, Kashmir ig a classic example. Except for the last Gov ernor, whom I do not want to name, we have been governed by galaxy of Governors, the like of whom perhaps no other State has seen, right from Dr. Karan Singh, the first Governor, to Shri Vishnu Sahay, Shri L.K. Jha and Shri B. K. Nehru. The rapport that these, what we call the repre sentatives of the Centre, had with the people and Government of that State was seen to be believed in the days when those luminaries were the Governors of the State, Here I tend to agree with the recommen dations of the Sarkaria Cammission given under 4.16.01 where they have stated;

> "A person to be appointed as a Governor should satisfy the following criteria;
>
> (i) He should be eminent in some walk of life.
>
> (ii) He should be a person from outside the State.
>
> (iii) He should be detached figure and not too intimely connected with the local politics of the State; and
>
> (iv) He should be a person who has not taken too great a part in politics generally, and particularly in the recent past."

Then under 4.16.02 it has recommended:

> "It is desirable that a politician from the ruling party at the Union is not appointed as Governor of a State which- is being run by some other party or a combination of other parties."

And lastly, under 4.16.03, it has stated:

> "In order to ensure effective consultation with the State Chief Minister in the selection of a person to be appointed as Governor, the procedure of consultation should be prescribed in the Constitution it-self by suitably amending Article 1-55."

I think from these recommendations of the Commission our aim will be achieved; that we should have Governors who are eminent people and who will inspire the confidence of people of the State.

Since you are beckoning me, although I have a lot of other points, I will make only one point and would like your indulgence because this is an important point. This is with regard to Art. 370 of the Con-stitution. In regard to this article, the Sarkaria Commission has stated that except for one party, i.e. the BJP, no other party has recommended its abrogation. This is a healthey sign. It is stated under 2.42.01: "One all India Political Party has demanded that Article 370 being a transitory Article should be deleted in the interests of national integration".

No other political party has made such a demand. I am glad that this has been so. But as far as the recommendations of the Sai-karia Commission are concerned, they have stated:

> "It is important to note that the process of extending the various provisions of the Constitution to the State has been gradual..."

You have to see it in the historical perspective—

> and founded on consensus and experience, to the mutual advantage of the Union and the

State. Because of the special circumstances in which Jammu and Kashmir became an integral part of India, the question whether its distinct constitutional status ought or ought not to continue, bristles with political complexities and is not a mere legal issue. We, therefore, refrain from making any suggestions in this regard".

They have stated this, which is not correct on the following basis.

On the question of legislation of the situation, in a recent case entitled *Khazan Chand vs. State* of *Jammu and Kashmir,* (AIR 1984, Supreme Court 762—767), the Supreme Court has held that the Constitution of India gives Kashmir a special status. For the sake of brevity I would not like to quote what has been stated in the judgment, but it has been very amply clarified that article 370 is a historical evolution and this cannot be done away with without the con. sent of the people of the State. This is the legal side, on which the Sarkaria Commission has stated that they cannot make any suggestion. The other most important legal point that has to be taken into consideration is that article 370 is a bridge between the State and the Union of India. Under article 370, alj/he laws that this Parliament makes are applied to the State of Jammu and Kashmir, and if this bridge is broken, no law here can be applied to that State. What has to be taken into consideration, most importantly, is that article 370 very clearly states, under proviso (3), that if somebody wants to delete article_ 370. it can only be done when a Constituent Assembly of the State is formed for the purpose, and then alone it can be done. The third proviso under article 370 very clearly states:

"Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification."

So, on legal points the position is very clear that unless and until the people of Jammu and Kashmir want this deletion, the special status of the State shall continue. For political reasons it is very essential to reiterate here that we in Kashmir are facing secessionist and other elements and, therefore, we have to see that we keep this bridge there. Kashmir is an integral part of India and no power on earth can detach Kashmir from the Indian Union but, at the same time, we have to politically fight those elements there, who say that abrogation of article 370 is being done to finish Kashmiries. So, extreme caution has to be exercised towards all those elements, all those people, all those parties and all those individuals who say that article 370 should be deleted. In the first instance, as I have already said, it is not constitutionally possible to do that unless a Constituent Assembly of the State is formed.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): You have made it very clear.

SHRI GHULAM RASOOL MATTO: Politically also it is not possible for them to do that.

Sir, there are many other points of importance, but as you have already beckoned me to stop, I would confine myself only to a few points ... *(Interruptions)*...

THE VICE-CHAIRMAN (SHRl JAGESH DESAI); Today you have exceeded your limit.

SHRI GHULAM RASOOL MATTO: Sir, this will be discussed further, again and again, after the Government forms an opinion on the basis of the opinions given in Parliament, outside and by the State Governments. They have said that so far only nine States have given their opinions and other States have yet to give their opinions. So, when the Government forms an opinion, it will

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be discussed again and then I will discuss it again. Thank you.

THE VICE-CHAIRMAN (SHRl JAGESH DESAI): Mr. Basumatari, five minutes.

SHRI DHARANIDHAR BASUMATARI (Assam): After long waiting, I am glafl that I got my chance to speak.

THE VICE-CHAIRMAN (SHRl JAGESH DESAI): Seven minutes.

SHRI DHARANIDHAR BASUMATARI: Sir, it was the Opposition parties which had demanded for the JPC and then boycotted it. Here also I found that it was they who had demanded for a commission, and from every nook and corner they are criticising the Sarkaria Commission now. I am not coming to that because it has been dealt with by many hon. members.

I was a Member of the Constituent Assembly which is unnecessarily attacked. This Constitution was framed after three years of discussion. All the elected people were there in the Constituent Assembly, and we had the privilege of hearing all the arguments, for and against. It was Dr. Ambedkar who reconciled all the people. I found that one gentleman from the South, Mr. Alladi Krishnaswamy Iyer, was a very knowledgeable person. He used to bring books from here and there. Dr. Ambedkar was so knowledgeable that he used to tell him, "Mr. Alladi, you will find in such and such place such and such an article of the constitution of this country and that country." So, he was strong in remembering all that.

Sir, I do not know how long you will allow me to speak, but I will take a little longer.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): No. The time is very short.

SHRI DHARANIDHAR BASUMATARI; i was a young man at that time. I was very attentive to the Constituent Assembly and heard every word of arguments. It was very very enlightening and interesting.

The Prime Minister, Mr. Nehru, himself thought that this Constitution was not up to the standard, what we wanted after the independence, to build our nation, because this Constitution had to be framed taking the model of many things including the 1935 Act. What is this 1935 Act? This 1935 Act was only for law and order. They were just to establish law and order. They could not do anything.

When Mrs. Indira Gandhi came to power, she wanted to bring progres sive ideas, but she could not imple. ment the progressive ideas under the Constitution. For the abolition of the privy purses she had to amend the Constitution. For the nationali sation of the banks she had to am end the Constitution. Like that she had to amend the Constitution 59 times. When the Constitution was amended 59 times, all the national leaders, so-called national leaders, Were angry with her and opposed her like any thing. She said that Prime Minister Nehru himself had presented the Constitution and he was saying, taking the Constitution in hand, that the .Constitution was not rigid but flexible, that it could be amended from time to time, if need be, and it could be changed whole lot. On this speech of Prime Minister Nehru, she asked me to take the advice of Mr. Gokhale who was the Law Minister. I discussed it with the Law Minister, as I discussed it with the Home Minister the other day. He wanted two days just to see all this with the Law Ministry. After two days he range me

up. I went there. He said, "Mr. Basumatari, it is easy. That is the point. We can go lor another Constitution converting both the Houses as Constituent Assembly."

THE VICE-CHAIRMAN (SHRl JAGESH DESAI): Mr. Basumatari, the time is very much limited.

SHRI DHARANIDHAR BASUMATARI; Please give me some more time. I have got to say many things.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI); You come to the subject.

SHRI DHARANIDHAR BASUMATARI: At the same time we constituted a committee under the leadership of Sardar Swaran Singh. It was discussed, and it was about to be accepted. But I should say that Mr. Dev Kant Borooah who was the President of the AICC, wanted to change the name of the committee as Borooah Committee. When he took the name of Borooah Committee, every Member opposed it. There was some exchange of words and more than that. I had to go to Mrs. Gandhi. Mrs. Gandhi said, "No, this is not an op-portunate time. Let us see some other time."

Sir. the Prime Minister himself says that it can be changed whole lot, it can be changed from time to time. You may get two-thirds majority in the other House. You mav not get two-thirds majority here. So, I requested Mr. Advani and Mr. Vajpayee that they can propose to go in for a second Constitution in the Consultative Comnrttee of the Home Ministry. What I noticed in the Consultative Committee of the Home Ministry was that the ODnositionl like anything in order to weaken the Cen. tre. If you weaken the Centre with a political angle, how can you maintain law and order and the dignity of the country? Therefore, I propose a resolution here to go in for a second Constitution. Mr. Vajpayee asked whom do you propose? I said I am proposing with you. Mr. Advani told me:

किसके लिए करोगे भाई ?

आपके लिए करेंगे। हमने अभी देखा कि—

There is not less calibre at present. We can frame a Constitution according to our desire, otherwise we cannot proceed with progressive ideas and stand for the development of the country. Before you ring the bell, I would Put up a resolution in this regard. I have consulted the Prime Minister on this matter. I have told him what Pandit Nehru had said in 1947 in his midnight speech at 1 CV clock. He agreed and asked me to consult Shri Shiv Shanker. I will consult him and tell him that he being a constitutional expert should go in for a second Constitution so that we may not quarrel for nothing like that. We are prepared for a second Constitution, but if you quarrel like that we feel embarrassed, because you are the cream of India. You are the people whom you cannot compare. You are the present intelligentsia. So, let us go in for **a** second Constitution so that new Constitution may be framed according to your desire.

DR. YELEMANCHILi SIVAJI (Andhra Pradesh): I am on a point of order. We took our oath under the Constitution. Are we competent to go in for a second Constitution?

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): That is all right. It is his view.

SHRIMATI BIJOYA CHAKRAVARTY (Assam): While taking part in the discussion on the Sarkaria Commission's recommendations, I agree with the members on this side ihat

[Shri Bijoy Chakravarty]

relations between the Centre and States are regularly and continuously deteriorating. In order to patch up the differences redistribution of powers is a must. It is all the more necessary to wipe out the colonial legacy in the behaviour of the Centre because they are playing dirty politics in the country. We have seen the behaviour of certain Governors in the non.Congress (I) States. Moreover, the Centre-State relations in the non-Congress (I) States are not well. I don't want to explain it further because it has already been explained several times. More sorrowful thing is the unhealthy processes being practised by the Centre to curtail the powers of the States. That is done not by legislation but by some convent ons and by some processes by the all powerful Prime Minister's Secretariat. This is not a healthy practice and this will cripple the entire country.

The Commission very aptly no[1]es the regional imbalances prevalent in the country, but the Commission did not perceive that the Central Gov. ernment with all its policies is responsible for it. The gap between the advanced States and the backward States is widenmg day by day because of this authoritarian policy at the Cejitre. The present over-centralisation is really detrimental to the growth of the country. Moreover, I want to point out that the dual Governorship of Assam and Meghalaya is really a peculiar thing and I feel that the State of Assam should have a separate Governor and this demand is pending for a long time and it is missing in the recommendations of the Sarkaria Commission. Sir, a strong Centre is a must, I do not deny it but it should not be at the cost of weakening the States by en. croaching upon the States legislative jurisdiction. The Commission's report says that there is a need for developing a spirit of cooperation, fede-ralism and a consensus in all areas. We welcome this recommendation But it failed to explore the areas for promoting cooperation, mutual trust, mutual belief in the relationship between the Centre and the States. We have sufficient ground to grumble with regard to the residuary powers of the legislation and taxation. These subjects should be placed in the Concurrent List. I feel, Sir, article 275 should be suitably amended so that the backward State gets necessary finance as grants from the Centre.

I am not against the existence of certain autonomous bodies like University Grants Commission, 1CMB, etc. These bodies do not give due weightage to the States for their development unless they are reconstituted in the proper form with due membership from the States concerned.

I want to mention another point and that is with regard to oil fields and mineral resources which should be included in the Concurrent List which is missing in the recommendations of the Sarkaria Commission. This will help us to control the pollution when we have adequate share in the profits and we can also use this money for various development activities.

So far as article 249 is concerned, it should be abolished. I feel that the Union Government by passing a Resolution in the Rajya Sabha by two-thirds majority can legislate upon any subject which is in the State List. The effect is that without a Constitutional amendment the whole structure of the Constitution can be changed.

I also strongly advocate for equal representation in the Rajya Sabha from all the States. Even in USA and Soviet Union equal representation system is there in their Upper Houses. I want to give example of Nagaland here. As you know, Sir, Nagaland is a hilly State and it has got only three Members representing

it, one in Rajya Sabha and two in Lok Sabha. I do no know how three Members can deal with the problems of that State in the Parliament.

Sir, the Commission has recommended the spirit of cooperative federalism, but cooperative federalism cannot be realised if the Central Government issues all the time directives to the State Governments and the State Governments are required to obey all these directives without getting an opportunity to discuss the various directives with the Centre.

Regarding the Governor's role in the non-Congress (I) States the less said the better. I want to say that no discretionary power should be entrusted with the Governor. Article 162 should be deleted to ensure this thing. The Governor should remain as a Constitutional head of a State Government but without discretionary powers because these would be harmful in the Centre-State relations. These powers are usually exercised for poetical ends. I also feel tha the Par iament should be empowered to discuss the action of the Governor whenever he acts independently or wrongly and we have seen the effect of it and we have discussed about this many a times in the House.

Sir, there is inordinate delay with regard to the the President's assent to the Bills passed by the State Legislatures. Actually, this procedure should not exist. Moreover, for better relations between the Centre and the States, article 352 which has undergone changes now should be repealed and pre-59th amendment position should be restored. Internal disturbance should not be made a ground for emergency. The Commission has not suggested any modification incase of declaration of emergency. It seems that the Commission has not suggested any measure to regulate the misuse or misrepresentation of facts before the President by an ambitious Prime Minister.

Regarding the deployment of armed forces, the Commission hag recommended that the deployment of armed forces can be done without the recommendation of acceptance of the States. We have seen it recently in Tripura just before the elections there. So far as the financial position is concerned, some of the recommendations car, be accepted but not all. The process of increase in administered prices should be shared with the States and it will benefit the State and will help in promoting good relationship between the Centre and the State.

Sir, floods in Assam should be treated as a national problem because of its frequency and high intensity. The entire expenditure in excess of the margin money should be borne by the Centre as cent per cent non-Plan grant and the economically weaker States like Assam and other north eastern States should be assisted more by grants than by loans. Moreover, in the *economic* and social planning, I feel that some of the recommendations are missing. The size of the plan of the backward States like that of Assam should not be linked with the resource ..vailabi-Iity because of the considerable benefits derived by the Central Government from national resources of that State. The quantum of Central as-s'stance towards Centrally sponsored schemes should be discussed in the NDC and in order to bring the State out of the cripp'ing condition, more powers should be given the State Government in respect Of licensing. The Centre should streamline the process of grant of licences and set uP a licensing unit in each State. A special programme for the north eastern States should be drawn up becaugg of the transport bottlenecks.

As regards forests, the Central Government by putting the forest and

[Shrimati Bijoya Chakravarty]

the wildlife in the Concurrent list, have amended the Wildlife Protection Act several times during 1977 to 1982 which have created difficulties in wildlife management in Assam. Every month, more than 100 people are killed in different places because of this. I would like to request that the subject should be vested in the State list. More powers should be given and it would be better if it is given an autonomous status. This would help in the betterment of the Centre-State relations and this would also be beneficial for the proper growth of the State.

श्री रामचन्द्र विकल (उत्तर प्रदेश) : सभापति महोदय, सरकारिया रिपोर्ट पर कल से विचार शुरू हुआ है और सभी दलों की ओर से अपने-अपने विचार व्यक्त किए गए हैं। यहां जो कुछ कुछ विचार के रहे, वह या तो गवर्नर के पद को लेकर हुए या केन्द्र राज्य संबंधों के बारे में रहे। आडवाणी जी यहां नहीं है। वीरेन्द्र वर्मा जी मौजूद हैं। सन् 1977 में जब उनकी गवर्नमेंट आई थी तो उन्होंने क्या किया था ? हमारी गवर्नमेंट तो हटाई थी, गवर्नर भी हटा दिए थे। तब न किसी राज्य से पूछा और न किसी सरकार से पूछा। सभापति महोदय, एक नयी बात यह हुई कि किसी गवर्नमेंट तोड़ने के बारे में भी गवर्नर से नहीं पूछा गया।

... (व्यवधान) ...

श्री वीरेन्द्र वर्मा : 80 में फिर वैसा ही कर दिया। ... (व्यवधान) ...।

श्री रामचन्द्र विकल : सभापति जी, वर्मा जी तो हमारी गलती से उधर हैं। हम आपको पक्का सुधार लेंगे तो शायद वे फिर आ जाएं। उन्हें तो हम डेपुटेशन भेज रखा है। सभापति महोदय, मैं यह कह रहा था कि हमारा भाव ऐसा होना चाहिए कि हम वह व्यवहार करें जो दूसरों का अपने साथ चाहते हैं। यह मानव-मात्र के लिए जरूरी है। हम जब सरकार में हों चाहे राज्य में हों या केन्द्र में हों तो हमारा व्यवहार दूसरा हो और जब सरकार में नहीं हों तो दूसरा हो यह हमारे राष्ट्रीय हित में नहीं है। डेमोक्रेसी के हित में नहीं है। चाहे मेरी पार्टी हो, चाहे दूसरी पार्टी हो हमें सही बात कहने का आदी होना चाहिए।

सभापति महोदय, आज गवर्नर्स की आवश्यकता पहले से ज्यादा जरूरी है। पहले इतनी नहीं थी, तब इतने विवाद नहीं थे। अब आए दिन विवाद-पर-विवाद खड़े हो रहे हैं। इसलिए आज गवर्नर्स की आवश्यकता पहले से ज्यादा जरूरी है। सभापति महोदय, कुछ पद तो हमारे देश के ऐसे हैं जिनके बारे में सोचा जा सकता है। सभापति का पद है। आप अधिष्ठाता मंडल के अध्यक्ष हैं। आप जब उस कुर्सी पर बैठते हैं तो क्या इधर-उधर की बात सोचते हैं ? उस कुर्सी पर बैठकर आदमी बदल जाता है। उधर से रेड्डी साहब बैठते हैं। कुर्सी पर जाने के बाद आदमी बदल जाते हैं। ऐसे ही राष्ट्रपति गवर्नर या एसेंबली के चेयरमन की कुर्सी पर बैठने के बाद अपने आप आदमी का व्यवहार बदल जाता है। हां, कोई व्यक्ति गिर जाए तो उसको उदाहरण नहीं बनाया जाना चाहिए अगर कोई व्यक्ति गिर जाए तो वह व्यक्ति अपने को ही गिराता है, पद को नहीं गिराता है। इसलिए इन पदों के बारे में ज्यादा विवाद नहीं होना चाहिए।

सभापति महोदय, सरकारिया कमीशन की रिपोर्ट को मैंने बहुत कम पढ़ा है, लेकिन सुनने से मुझे उसका सारा सार मालूम हो गया क्योंकि मैं तो सुनता रहता हूं। अभी अलंदो अरुण जी कह रहे थे कि गैर हिंदी भाषी राज्यों के लिए बड़ा बुरा कर दिया मैंने 501-502 सफा पढ़े। उन्होंने हिंदी के बारे में अजीब राय दे रखी है। कुछ सामितियों के नाम बदल दिए जाने चाहिए और गवर्नेंस के बारे में भी ऐसा लिख दिया है, मतलब सरकारी अफसर ही होने चाहिए। बहुत-सी बातें खराब हैं, उन पर भी विचार हुआ और अच्छी भी हैं उन पर भी विचार हुआ है। मैं मानता हूं कि आर्थिक, प्रशासनिक और राजनीतिक सभी पहलुओं से इस रिपोर्ट पर अच्छा विचार हुआ है। अच्छा डिस्कसन हुआ है। इस रिपोर्ट पर गंभीरता से केन्द्र और राज्य सरकारों को विचार करना चाहिए।

समापति महोदय, मैं इतना और कहना चाहता हूं कि कुछ अधिक विषमताएं भी देश में विभाजन का कारण बनती हैं। सामाजिक विषमताएं, आर्थिक विषमताएं, क्षेत्रीय और भाषायी विषमताएं--ये देश के सामने नहीं आनी चाहिए। यह नहीं होनी चाहिए परन्तु यह जो आजकल राजनीतिक छुआ छूत चल रहा है, उससे सबसे ज्यादा खतरा लगता है। उससे ऊपर उठना चाहिए। चतुरानन मिश्र जी यहां नहीं हैं। वह अच्छे विद्वान हैं, बोलते भी अच्छा हैं। उनके तर्क पसंद आते हैं। अपनी भाषा में बोलते हैं परंतु कभी-कभी बड़े हल्केपन से बोलते हैं। चाहे वह उपहास ही हो लेकिन इस्केपन से नहीं बोलना चाहिए। उन्होंने कह दिया कि यहां तो बुद्धि ही नहीं है। होम मिनिस्टर ने कह दिया बुद्धि खोलकर बात करो। हमारी सारी पार्टी कहती है कि दिल-दिमाग खोलकर बात करो। उन्होंने कहा बुद्धि नहीं है। यह रहेंगे कि नहीं रहेंगे। उन्हें मालूम होना चाहिए कि कौए के कोसने से गाय नहीं मरती है।

बुद्धि नहीं होती तो यह दुनिया में भारत का इतना नाम 40 साल में, चाहे गुट निरपेक्ष देशों को लें, चाहे पंचशील के सिद्धांत को लें, चाहे विश्व शान्ति के सिद्धांत को लें, चाहे विकास के मामले को लें, चाहे सह-अस्तित्व के मामले को लें, सारी दुनिया भारत को धाक मानती है। मैं तो बहुत कम गया हूं लेकिन बाहरी दुनिया भारत की अनेक मामलों में धाक मानती है आज भी, पर हमारे लोग कभी-कभी ऐसी बातें कहकर के कभी-कभी हल्कापन कर देते हैं, यह ठीक नहीं है। भारत का गौरव 40 साल के राज में काफी बढ़ा है। उपसभापति महोदय आर्य-समाज के भजनी भजन गाते थे

"तुमसे और तो क्या हो यार, होती सुई तक नहीं तैयार"

सुई जिस देश में नहीं बनती थी, आज विकास की गति को आप देखें अंतरिक्ष तक पहुंचने में, डैम, रेलवे लाइन और सड़क और विकास तो और होना चाहिए, पर जितना विकास हुआ है यह बुद्धिमान लोगों की वजह से हुआ है, निर्बुद्धि लोगों की वजह से नहीं हुआ है यह मिश्र जी को बता देना चाहता हूं। साथ ही एक बात मैं और कहना चाहता हूं कि उपसभापति महोदय, मुझे पीछे डाल देते हैं और फिर जल्दी – जल्दी आप भी करते हो **(व्यवधान)**

उपसभाध्यक्ष (श्री जगेश देसाई) : क्योंकि आप हमेशा बोलते हैं।

श्री राम चन्द्र विकल : सच्चाई यह है जो मैं गृह मंत्री जी से कहना चाहता हूं जिसका जिक्र वर्मा जी ने किया। काका कालेलकर कमीशन की रिपोर्ट हमने ही बनाई, केन्द्र ने ही बनाई और कांग्रेस सरकार ने ही बनाई, उस पर अमल नहीं हुआ। मैं एक और याद ताजा कर दूं गृह मंत्री जी को कि जवाहर लाल नेहरू जी प्राइम मिनिस्टर थे, इन्दिरा जी प्रेसिडेंट थी सन 58 में सप्र हाउस में। मेरा एक गैर सरकारी प्रस्ताव केन्द्र और राज्य सरकारें काका कोलेलकर कमीशन की रिपोर्ट पर अमल करें, इसका था। उसपर बहस हुई, हमसे बहुत कहा लोगों ने, ब्रहम प्रकाश जैसे लोगों ने कहा कि विदड्रा करो। मैंने विदड्रा नहीं किया, मैं अड़ गया। जब मैं अड़ गया, प्रस्ताव को वापिस लिया तो नेहरू जी ने खुद संशोधन किया खड़े होकर कि इसमें संशोधन करो इतना कि केन्द्र और राज्य सरकारें यथासंभव अमल करें। वह प्रस्ताव सर्वसम्मति से पास करा, यह मैं बताना चाहता हूं गृह मंत्री जी को। नेहरू जी के अमेंडमेंट के बाद आखिर काका कालेलकर रिपोर्ट हमारी सरकार की बनाई हुई थी। कांग्रेस, ए०आई०सी०सी० हमारी है। वह प्रस्ताव सर्वसम्मति से नेहरू जी के अमेंडमेंट से पास हुआ, उसपर अमल किया जाना चाहिए, अब देर नहीं करनी चाहिए, यह जरूरी है। मैं जब नीचे उतरा तो श्याम नन्दन मिश्र ने मुझसे कहा कि नेहरू जी ने अमेंडमेंट रखकर विकल साहब आपकी आबरू रख ली तो मैंने कहा कि मैंने भी तो नेहरू जी का अमेंडमेंट मानकर नेहरू जी की आबरू रख ली। मैं तो बड़ा निर्भीक था, नेहरू जी उदार थे तो नेहरू जी खुश हुए, नाराज नहीं हुए। बातें तो मैं बहुत कहना चाहता था, आज

[श्री राम चन्द्र विकल]

उस पर नहीं जाना चाहता। मैं एक निश्चित राय का हूं। उपसभापति महोदय, गवर्नरों के या कहीं भी वोट की सदैव नहीं जांची जानी चाहिए। एक गवर्नमेंट गिर जाए तो जो बड़ी पार्टी है उसको एक मौका जरूर दिया जाना चाहिए। बार-बार मिड टर्म चुनाव कराना इससे आर्थिक बोझ पब्लिक पर पड़ता है, टैक्सों का बोझ पड़ता है और कोई भी सरकार, चाहे मेरी हो चाहे अपोजीशन की हो, यह मौका सिंगल लारजैस्ट पार्टी को एक बार देकर देख लो। नहीं चला सकती है तो मिड टर्म पोल करा दो, राष्ट्रपति शासन कर दो लेकिन गवर्नर रूल या राष्ट्रपति शासन एक उपहास के तौर पर नहीं होना चाहिए, गंभीरता से इस पर चिंतन होना चाहिए।

मैं अधिक समय तो नहीं लेना चाहता फिर भी मैं उपसभाध्यक्ष महोदय आपका आभार मानता हूं कि इस रिपोर्ट में बहुत सी ऐसी बातें हैं जो विवादास्पद हैं और रिपोर्ट कोई आयते-हदीस नहीं होती। सरकार को अपोजीशन के लोगों के भी अच्छे सुझावों को लेकर देश में अच्छा वातावरण बनाना चाहिए। आज कुछ शक्तियां हमारे देश के अंदर तोड़-फोड़ करना चाहती हैं। हम संविधान की शपथ लेते हैं कि हम निष्ठा, श्रद्धापूर्वक संविधान का पालन करेंगे और देश की एकता अखंडता को अक्षुण रखेंगे। इसके बावजूद हमको ऐसी ताकतों के खिलाफ इकट्ठा होकर लड़ना ही होगा जो देश को मजहब के नाम पर, चाहे क्षेत्रवाद के नाम पर, चाहे भाषा के नाम पर या किसी भी अपने निजी स्वार्थवश या विदेशियों की किसी चालवश इस देश को तोड़ना चाहती हैं। उनसे सदन को इकटठा होकर लड़ना चाहिए और उपसभापति महोदय ऐसी ताकतें आजकल बढ़ रही हैं। मैं आज पाकिस्तान के बारे में नहीं बोल रहा हूं। पाकिस्तान जब चाहे काश्मीर का सवाल उठा देता है। मैं गृह मंत्री जी से कहना चाहता हूं कि हमें भी निर्भीक होकर कहना चाहिए कि आजाद काश्मीर भारत का हिस्सा है, यह कहना चाहिए अगर पाकिस्तान काश्मीर का सवाल उठाता है। ऐसे बहुत से सवाल हैं जिनको मैं इस समय यहां पर नहीं कहना चाहता हूं, लेकिन आज बहुत से हालात ऐसे हैं जिनके बारे में हमें सोचना चाहिए और देश की एकता और अखंडता को किसी भी नाम से कोई व्यक्ति तोड़ता हो तो उसके साथ सख्ती से निपटा जाना चाहिए चाहे वह मजहब के नाम पर हो, चाहे किसी भी नाम पर, जो देश को तोड़ता है उसको सजा देनी चाहिए।

6 P.M.

श्रीमन्, यहां पर हमारी फौजों की चर्चा की गई लेकिन मुजफ्फरनगर में तो हमारी पार्टी की सरकार है, वहां फौज को बुलाने वाली शक्ति कौन है, उसको देखना चाहिए उनके साथ सख्ती से निपटना चाहिए क्योंकि हमारे यहां कहावत है कि "हाथ करार देखकर दुश्मन विफल हो जाए". हम उदारता दिखाते चले जाते हैं और लोग उसको कायरता समझते हैं। इसलिए ऐसी शक्तियों के खिलाफ जो देश की एकता और अखंडता को नष्ट करते हैं, उनके साथ सख्ती से निपटना चाहिए, देश को आज बाहर से खतरा नहीं है, देश को अंदरूनी शक्तियों से, अंदर के जयचंदों से खतरा है। ऐसी शक्तियों के साथ सशक्त होकर निपटना चाहिए। इतना ही कहकर मैं आपका आभार मानता हूं। धन्यवाद।

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Now, Mr. Narayan samy. Only five minutes.

SHRI V. NARAYANASAMY: Mr. Vice-Chairman, Sir, I will not take more than five minutes.

S'r, the Sarkaria Commission Report once again reflects the concept of a strong Centre and strong States. I heard several Members from the Opposition side on the role of the Governors. But I have not received any concrete suggestion from them on the various questions which remain unanswered. When there is no Assembly, when there is no Chief Minister functioning, the executive is there and the Chief Secretary to the Gov-

ernment is there. But who is there to run the State? Who is there to take policy decisions relating to the State? Apart from that, who is there to the day-to-day administration of the State? There is a vacuum in the State. But they are criticising the role of Governor and they simply say that the post is not necessary at all it should be abolished _ I would respectfully submit that the Governor is the watchdog of the State administration. He has to see whether the State administration is being run in accordance with the provisions of the Constitution or not. Recently, an episode has taken place in Andhra *Pradesh* with regard to the Lok Ayukta. We also see several parties joining together and issuing statements and raising this issue in the House also. But I would like to say One word here. A person who has been asked fo investigate into the allegations raised against his own family members appoints a committee or commission to inquire into the matter and the same person is being recommended. .. *{Interruptions)...*

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh); This i_s not relevant, Sir... *(Interruptions)...*

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): That is all right. It is quite in order. It was raised by your people.

SHRl V. NARAYANASAMY; Sir, the Lok Ayukta can SMO *raatu* go into the allegations against the Chief Minister, Ministers and other executive authorities... *(Interruptions) ...*

SHRI B. SATYANARAYAN REDDY: Sir, he is raising these issues... (Interruptions)...

THF VICE-CHAIRMAN (SHRI JAGESH DESAI); How can I stop him? It is a question of Centre-State relations.

SHRl V. NARAYANSAMY; When a person who appoints another who is interested in him, will there be any justice? Kindy see the conduct in appointing a particular person. When a Chief Minister senda a hie to the Governor, unlesg and until it is approved by the Governor, the contents will not be disclosed.

SHRI B. SATYANARAYAN REDDY: You do not know anything.

SHRI V. NARAYANASAMY: I know all the things and I know what is happening in Andhra Pradesh also. Sir, the Chief Minister went to the Press and announced that so and so had been appointed. Invitations had been printed and given to the people and the top officers would have come. But the Governor has th_e discretion to consider whether such a person is to be appointed or not. The Governor had returned the file to reconsider the decision. These are the things on which the Governor has to ^{act} as a watchdog of the State administration. Therefore, the post of Governor is required. It is necessary. They say that the Governors are the stooges of the Central Government. When the Governor acts according to the Constitution and it goes against them, they say that he is a stooge of the Centre. This is their attitude. Looking politically into the matter, if they want the political process and the Centre and State admurstration to run smoothly, then they have to see the larger interests of the country. Therefore, I would like to urge upon the hon. Members that they should have a broader view of Centre-State relations.

(Interruptions)

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): It is within the scope of the discussion.

SHRl V. NARAYANASAMY; Secondly, Sir, I will come to the Union Territories. The concept of Union Territories which was prevailing in

[Shri V. Narayanasamy] those days has now become non-existent. In the case of Andaman and Lakshdweep islands, it is different. Their position is different because of defence. The Centre has to take that Into consideration. But in the case of Delhi, I| would say that Delhi is the capital of the country and a metropolitan Council can be there. We have raised a demand for granting statehood to the Union Territory of Pondicherry. Our Assembly has also passed a Resolution and sent it to the Centre so that they may consider our demand t_0 upgrade the Union Territory of Pondicherry and make if, a State. I would like to submit that Mizoram and other States of North-Eastern region have been given statehood recently. They had a population of! less than 4 lakhs. They have been given statehood. We gave our demand to the Sarkaria Commission also. It has not been answered. I put a question jn this House and the Home Minister stated that it is under the consideration of the Central Government, I would like to say that the Union Territory of Pondicherry has all the qualification required for statehood. Itl should be declared as a State so that the administration of the State can run perfectly.

Now I come to the financial matters The allocations are in the State List in the Seventh Schedule. The tax amount is divided. The Centre is giving gran's. But there is no mention about the Centre giving grants to the State Governments, especially the States which are run by 'he non-Congress (I) parties, and these State Governments having diverted the funds to other purposes. This ig my specific charge. It was also found out by the Comptroller and Auditor General of India that funds have been diverted by them.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI); It is for the Central Government to take care of these things.

SHRI V. NARAYANASAMY: So, the Government has ta take care of these things and there should be a methodology chalked out 'for this purpose. Thank you.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI). The discussion will be completed today and the reply will be given tomorrow. Mr. Hanumantha Rao. 10 to 12 minutes only.

SHRI MOTURU HANUMANTHA RAO (Andhra Pradesh): Mr. Vice-Chairman, Sir, this Sarkaria Commission was set up after so much of agitation in this country and it has taken four years to prepare a report and give it to the Central Government. The Central Government has taken one year to bring it up for discussion in the Rajya Sabha and in the Lok Sabha. They say that after taking the opinion of the hon. Members, the Central Government would take a dee sion. This report was prepared after four years of deliberations and discussions with the leaders of so many parties and individuals. They have not regarded it as such. On the other hand, they have been going on practising in the same old way that they have been doing. They say that with due respect to the Parliament, they have waited for coming to some opinion about it. They have not given any opinion. When Mr. Matto raised that point, they said that they have been waiting in order to get the opinions of the Members. But what have they been doing? This Sarkaria Commission has made certain recommendations as against the present practice followed by the Central Government? Was it respected? Was it at least deferred? There was-nothing of the type. With utter disregard and contempt to the .recommendations made by the Sarkaria Commis sion, they have been appointing Governors and transferring Governors, applying Article 356 and dismissing the State Governments and the Assemblies. All these things are

going on as usual disregarding what is stated in the Sarkaria Commission Report. So, is this the way in order to arrive at a democratic opinion? I do not think so. I do not. have any illusion that after the discussion in this Parliament, they would arrive at a correct conclusion because their practice had been there for years, and after this for one year, we have been seeing them in practice. That is why, Sir, these are all illusions. They are not going to change their practice, particularly Mr. Buta Singh and Mr. Chidambaram at the steering rod, nothing would come about. That is what I say. The point is. Sir, I do not say that the Sarkaria Commission has made all good recommendations. In fact, it has disappointed many State Governments and many forces that expressed their democratic opinion. The point is that after the Sarkaria Commission was appointed, the Gov ernment of Andhra Pradesh has sent its reaction, the Kerala Government has sent its reaction, the West Ben gal Government has sent its reaction, the Karnataka Government has sent its reaction. All of them got very much disappointed with the recommendations of the Sarkavia Commission because they expected some changes, thev expected that theay would recommend some changes in the Constitution and that some ;Amendments would be brought forward in accordance with them. Even if some preachings were there, this Central Government would not respect those preachings and it is obvious from their previous practice. That is exactlv why these States expected some Constitutional amendments to be suggested bv the Sarkaria Commission- so that in practice thev are not violated. But that is not done. That is exactlv whv not nnly these State Governments but also other State Governments must, have beffi dSsao-pointed Vieeausp thp Sarkaria Commission has maintained, has tried to swell out the *status quo* should continue. Their recommendations are there though in a different tone. They are advisory in character and not at all obligatory on the part of the Central Government to practise. So, in such a situation, a lot of disappointment is there. And now the AP Governor is shown as an example. And]j do not think that any democratic force in this country would accept such a thing. If the Governor is given such an authority as to withhold any decisions of the Government that is elected by the people, then it is only the Governor that rules and not the elected Government. And in Kerala also, it is happening. Just after the Sar-karia Commission Report was there, after their recommendation was there, the Governor was appointed and sent to Kerala.. .without the consent of the State Government. It was stated here that the State Governments were consulted. That was wrong. They were only informed at the last moment that so and so would be appointed as the Governor. All these violations are there. That is exactly why I sav that nothing has changed after this Commission's report has come and that is why I say that I do not have an,, illusion. If they change, most welcome. But I do not see any hope that they would change.

Coming to the constitution as such, it stated here—our party's view is distorted by my hon. friend, Mr. Advani—and he has quoted from the memorandum we submitted, as if we were against the Centre and all. that. He wants to make it a I unitary Government. We were maintaining all through that it is a federal State. multi-national, muiti-ligual and multi-racial State.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI>: Did you say multi-national? *(Interruptions)*

SHRI MOTURU HANUMANTHA RAO; It is multi-national in the sense that in one country there are so many linguistic grouos. so many racial groups and so many languages are stioken and that is exactive who it is given a federal character and not a unitary character. It has been given a federal

[Shri Moturu Hanumantha Rao] character by the founding fathers of the Constitution. I can quote from Dr. Ambedkar himself. Mr. Advani was saying that this is not a federal State and that it was called a union of States. But that name was given with a particular motive.

SHRI ANAND SHARMA (Himachal Pradesh): What was the motive of giving it the name, Union of India? Please explain the motive. *(Interruptions)*.

SHRI MOTURU HANUMANTHA RAO: I am quoting, here for your benefit the founding father or the main architect of the Constitution. Dr. Ambedkar speaks like this on August 3, 1949, when these provisions were under discussion. He said and I quote; I think it is agreed that our Constitution, notwithstanding the many provisions which are contained in it whereby the Centre has been given powers to override the provinces, nonetheless is a federal constitution, and when we say that the constitution is a federal constitution, it means this that the provinces are as sovereign in their field which is left to them by the Constitution as the Centre is in the field which is assigned to them.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): He has said about the provinces and not the nation. (Interruptions).

SHRI MOTURU HANUMANTHA RAO: The entire meaning is given. I further quote.

DR. G. VIJAYA MOHAN REDDY (Andhra Pradesh): All provinces are States.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Not nations, States.

SHRI MOTURU HANUMANTHA RAO: I am speaking of not nation but nationality. I demarcate nationality •from nationality. Sometimes it is provinces that are called nationalities also. We all stand firm on maintaining national integration and here everybody knows that the Communist Party of India Marxists' stand is in defending the national integration and in fighting against the fissiparous tendencies and in fighting against separatism. It has sacrifled so much for (Interruptions).

We are definite that the understanding of the provision of this Constitution is that it should be maintained as a federal structure and not as a unitary structure. This was made clear by Dr. Ambedkar repeatedly.

I am quoting him further while concluding, after the debate was over.

SHRI ANAND SHARMA: Since he quoted Dr. Ambedkar out of context, to set the record straight...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI) Minister will take care of it.

SHRI MOTURU HANUMANTHA RAO: I am quoting Dr. Ambedkar again. 'As to the relation between Centre and the States, it is necessary to bear in mind the fundamental principle on which it rests. The basic principle of federalism is that the legislature and executive authority is portioned between the Centre and the States not by any law to be made by the Centre but by the Constitution itself and this is what the Constitution does. The States under our Constitution are in no way dependent upon Centre for their legislative or executive authoriy. The Centre and the States are coequal in this matter." This is Avhat he has stated. To say that Governors are given an authority and at their whims and fancy the Governments will have to rule, is the most absurd interpretation given by the hon. Supreme Court lawyer, Mr. Madan

Bhatia. So I would say that nationalities are to be respected; States are to be respected and they are to exercise their power to the extent they are elected by the people. They are equally representing the people. Here it has been stated that our party has been stressing upon the Centre. No doubt, we stress on both; we want a strong Centre and we also want strong States. Here is the memorandum in which it was stated that our party stands for the unity of the country and fights all forces of disintegration. We definitely stand for an effected and efficient Centre, capable of defending the country organising and consolidating its economic life and adequately armed with powers to discharge its other jobs like foreign policy, communications, foreign trade etc. So. it stands for a strong Centra in order to defend our- nation, in order to defend our country and see that economic structure also is organised. Not that we do not want it; hut at the same time, to the extent the States are given power to rule, they must be allowed to rule. But this Constitution is not sacrosanct. It has to be 'respected and we have taken oath to defend it. But at the same time, have not changes been made in it? Fiftynine amendments were brought by the Government. And to which direction? The direction was to see that rights of the States are taken away and concentrated at the Central level. That is why it has become authoritarian, it has become undemocratic, it has become dictatorial. That is exactly why there was so much of agitation to change and to suggest certain amendments in order to see that our democracy is... *(Interruptions).*

SHRI V. NARAYANASAMY: To say that it is dictatorial...

SHRI MOTURU HANUMANTHA RAO; In my expression and in my understanding, it is dictatorial.. (Interruptions).

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Please, please.

SHRI MOTURO HANUMANTHA RAO: Even the 59th amendment to the Constitution itself was so: then ESMA was dictatorial. ESMA takes away the right to strike which the constitution has given. NSA, the National Security Act. It takes away the right of the citizens to live. The Fundamental Rights are taken away in the name of Emergency. The provision is there that empowers the Central Government to take away the Fundamental Rights, suspended the Fundamental Rights. What are they if not dictatorial?

THE VICE-CHAIRMAN (SHRI JAGESH DESAI); Please conclude.

SHRI MOTURU HANUMANTHA RAO: They are dictatorial and they are authoritarian. We have to fight against these things. But We have not suggested the scrapping of this Constitution. The Communist Party India (Marxist) has not asked for scrapping this Constitution. For that the economic structure has to be changed. The direction should be there. The perspective should be there. This perspective is mentioned here also. If not for perspective, what for the word 'socialism' was included in the Preamble of the Constitution? Therefore, we have got a different perspective. Whether it is possible now or not, in future, it has to be changed. When circumstances change, Constitutional amendments will come or a new Constitution will be framed. Therefore, we did not ask the Sarkaria Commission to recommend scrapping of this Constitution. We did not ask for it. Sir, since Shri Advani was quoting. please allow me a few minutes to quote . . .

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Another three minutes.

SHRI MOTURU HANUMANTHA RAO: Our memorandum mentioned:

"While the basic nature of the Constitution framed in 1950 was

[Shri Moturu Hanumantha Rao] declared to be federal in principle, its content wag excessive Centralism. Furthermore in its actual working, it became still more centralised. The fact that the same political party was in the saddle at the Centre and in all the States for nearly three decades facilitated this process.

This process of changing the Constitution in a different direction.

> "The States were made to surrender voluntarily the rights they had in the original provisions of the Constitution."

Because Congress was ruling in all the States, the Centre prevailed upon all the State Governments. For example, Chief Ministers were removed at Centre's will. So many things happened like that. We have said here:

> "The States were made to surrender 'voluntarily' the rights they had in the original provisions" of the Constitution. Many of the amendments made in the Constitution during the last thirty-seven years deprived the States of whatever elements of autonomy they originally had. That is why the moment other parties started ruling the administration in the State level, the question of Centre-State relations became a subject of hot debate. Once the non Congress led State Governments started agitating for greater powers and resources, the Congress-led State Governments too started joining the demand. The memoranda submitted by the State Governments to the successive Finance Commissions will show that there is no difference between the Congress-led and other State Governments in protesting against the inroads made into the States' resources. A process that has been uninterruptedly going on during this entire period."

This has been the practice. I will cite just one example. The then Chief Minister of Kerala, belonging to the Congress (I), Shri Karunakaran himself differed on the question of administered prices and other things. *(Interruptions).*

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Mr. Karunakaran may have his views. I also have my views.

SHRl MOTURU HANUMANTHA RAO: So many people differed. He expressed this view at the meeting of the National Development Council itself. That is why I am referring to this.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): He might have expressed. But I think his views are not correct. *(Interruptions).*

SHRIMATI KANAK MUKHERJEE (West Bengal): The Chair is not supposed to take part in the discussion.

SHET MOTURU HANUMANTHA RAO: We have said: "Our party does not belisve that a correct solutin of the question will *ipso facto* solve the problems of the Indian people." Their solution relates to changing the basic structure of sacicty but arming the Slates with autonomous powers, relaxing the dictatorial grip of the Centre and the ruling party will help the people to fight the grip of the vested interest on the States and Central Government. *So, the* vested interest; Mr. Advaniji wag quoting that we were at tributing motives to the found ing fathers. Whatever might be the motive, whether it was there or not, in practice we have been seeing. Socialism was not there originally, it was introduced later and though socialism was wanted, it was rather placed there as an objective. Practice is capitalism. The capitalist path was in existence and the big business that was controlling the State even then, by other means not directly in powe'r but hv other means still are ruling the roost.

That is why we say that though socialism is put as a decorative thing, it is only a decorative thing, in practice capitalism is growing and big business is growing, particularly at the instance of the present Government. That is why even the democratic norms are also suppressed by the big business. It is not attributing motives, it is what we are seeing in practice. Thank you very much.

DR. YELAMANCHILI SIVAJI: In Andhra Pradesh three elections took place, in 1983, in 1984 and in 1985. In all the three elections the Congress party and the party ruling at the Centre, they were utterly defeated. We are going to face another election. The only hope which the Congress is lingering on is that they can fight the election with the help of the Governor. So, the Raj Bhawan is being used as the office of the Stale unit of the Congress (I) party.

SHRI ANAND SHARMA: It is not in good taste. They are discussing only Andhra Pradesh Governor.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI); Do not interrupt him. Do not take his time. He has only half a minute more, (interruptions).

SHRl ANAND SHARMA; What we are trying to point out is that we are discussing the Sarkaria Commission *{Interruptions).* You are obsessed...

DR. YELAMANCHILI SIVAJI: And the Governor is acting as president of the State Congress unit.

SHRl V. NARAYANASAMY: That shows that you are really afraid of the Governor.

DR. YELAMANCHILI SIVAJI: That is why I say, why not appoint Mrs. Kumudben Joshi as the president of the Congress party and go to polls. *(Interruptions).*

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Now the discussion is over and the Minister **will** reply tomorrow. The House stands adjourned and will meet again to-morrow at 11.00 A.M.

The House then adjourned at thirty-four minutes past six of the clock till eleven of the clock$_i$ on Wednesday, the 30th November, 1988.