

Tamil Nadu yesterday and today, trigger red off by the irresponsible and reprehensible statement by the Sri Lankan Minister for Land Develop-

t, Mr. Garmini Dissanayake. He is here now in Delhi to chair the Asian

ket Conference. At least, Sir, there is some seriousness in the play of cricket. But his playful words have been totally devoid of any merits, and this has sent shocks in the nerves of the people of Tamil Nadu, because it is not only a criminal slur on the face of the Chief Minister of Tamil

u but he has ditched on the face of every Tamil of m. y State and elsewhere. I can understand his criti-i against Hon' ble. Mr. M. G. R.,

Chief Minister of Tamil Nadu, in Sri Lanka, to pacify the agitating Sinha-against Mr. Jayewardene's Gov-aent. But when he has come over, there is a diplomatic privilege.

I nothing more can be a gross violation or abuse of a diplomatic privilege than this. He is reported toE said—it has appeared in every newspaper this morning—he has said in Madras that Mr. MGR's announcement of aid to Sri Lankan Tamils, who are tortured by the Sinhalese, is "foolish". Further, he says

n fulminating anger that his utterances are i"foolish". I am conscious of the difference between calling a person fool and his utterances as foolish. The difference is very slender. The demarcation is very slim. And when we take the situation in which he has expressed these things, when we take stock of the situation, I think possibly there is a gross abuse of a diplomatic privilege by a foreign dignitary.

Sir, again "he says, "The Tamils in Sri Lanka never asked for the aid". This is distortion of facts. His further equally irresponsible statement that there are "so many afflicted in the State with hunger and poverty" is a criminal slur on the face of Tamil people. We have problems. We have our difficulties. But when a foreign degnitary comes over here abusing

the diplomatic privileges that he is provided with, bestowed upon, by this Government—he has stated that there is hunger and poverty in Tamil-Nadu—this is a slur on our people.

I would like to request the Government to take a serious note of what he has slated and *come* out with a statement condemning the irresponsible utterances in violation of the diplomatic privileges.

THE GOVERNORS (EMOLUMENTS, ALLOWANCES AND PRIVILEGES) AMENDMENT BILL, 1987

THE MINISTER OF STATE IN THE
MINISTRY OF HOME AFFAIRS (SHRI
CHINTAMANI PANIGRAHI): Sir, I beg to
move:

"That the Bill to amend the Governors
(Emoluments, Allowances and Privileges)
Act, 1982, as passed by the Lok Sabha, be
taken into* consideration. "

Article 158(3) of the Constitution lays down that the Governor shall be entitled without payment of rent to the use of his official residences and shall also be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and until provision in that behalf is so made such emoluments, allowances and privileges as are specified in the Second Schedule. The Second Schedule prescribed a salary of Rs. 5500/- per month for the Governors. To regulate the emoluments, allowances and privileges of the Governors . as an Act, namely, Governors (Emoluments, allowances and Privileges) Act, 1982, wa_s enacted. This Act has now been brought into force with effect from April 1, 1987.

Consequent on revision of the salary and allowances of the President, Vice-President, Ministers, Speaker, Dy. Speaker, Members of Parliament, etc. in December 1985, the question

[Shri Chintamani Panigrahi] of revision of salary, etc. of various constitutional statutory authorities, including the Governors, had been under consideration. Sir, the salary of the Judges of the Supreme Court and High Courts has also been revised by virtue of the Constitution (Fifty-fourth Amendment) Act, 1986, and the effective date has been fixed as from 1st April, 1986. It would, therefore, be appropriate to enhance the emoluments of the Governors of States from the said date, i. e. April 1, 1986. Accordingly, it is proposed that the emoluments of the Governors of States may be enhanced from Rs. 5500 to Rs. 11000 per month with effect from April 1, 1986.

Therefore, I move this Bill for consideration.

The question was proposed.

SHRI NIRMAL CHATTERJEE (West Bengal): Has the value of money become half?.

MR. CHAIRMAN: You cannot exercise your right of speech in this way.

SHRI MOSTAFA BIN QUASEM (West Bengal): Mr. Chairman, Sir, I may be permitted to initiate the discussion by putting a question to the Government. I would like to know whether the Government did have prior consultation with the States before initiating this piece of legislation. My query flows from a particular perception of the federal system of Government. In a federal system, it is generally accepted that even though a subject might lie within the exclusive jurisdiction of the Union Government, but the exercise of union power over such subjects may affect the interests of the States in some way or the other. Here in this particular case I do admit that the Government of India has the power to legislate over this subject. But it would have been better for the Government if they had consulted the State Government particularly because the financial implications of

this legislation are going to be borne entirely by the State Government. You know Sir, that the money to be paid by way of salaries and allowances of the Governor of a State are entirely charged on the Consolidated Fund of the State. I would be happy if the hon. Minister reacts to this query of mine when he replies to the debate.

Sir, the entire process of this legislation reveals a clear failure on the part of the Government. The Statement of Objects and Reasons appended to the Bill makes another documentary confession by the Government that it has failed miserably to arrest the price rise in the country in spite of its lofty pronouncements of pursuing a sound economic and fiscal policy. The Bill smacks of a larger confession that the price rise has reached such proportions that the Government, in all haste and eagerness, has thought it prudent to come out with, a Bill which seeks to increase the salaries and emoluments of the Head of the inmates of the Raj Bhavans of the States by 100 per cent from Rs. 5500/- to 11,000/-per month. Sir, I don't think whether a day will at all come when the Government will show at least one-hundredth of such eagerness to stand by' and protect the millions of our toiling working class who have also been worst victims of this price rise which is a concomitant of the Government's policy.

Coming to the content of the Bill, I am strongly opposed to it. The working of our Constitution upto this time has proved it quite unfortunate that the Constitution provided for the post of the Governor, Sir, the creation of the post of Governor Ms a legacy of the imperialist administration. You are aware that during the British days the Governor acted as the ears and the eyes of the Governor General and the foreign ruler. But in the changed context of an independent India having a democratically elected administration

States, this system seems to me to be quite anomalous. There was a lofty theory floated regarding the Governor that he will be an effective link between the Centre and the State. But in spite of the lofty theory regarding the role of the Governor, in practice most of the Governors, though not all, have tended to function in accordance with the pre-independence colonial tradition acting as the *de facto agent* of the Central Government. This has been the position with the Governor. Times without number this office has been misused by the Central Government or rather the party which was in power and which is in power in the Centre. It has abused the post. You are aware of the fact that the qualification prescribed for the Governor in the Constitution is that he must be a citizen of India and must have completed 35 years of age. But beyond this literal provision of the Constitution, many eminent members of the Constituent Assembly laid emphasis on the calibre, background and qualities of the persons who will fill this post. Shri Jawaharlal Nehru's idea was to have persons from the eminent people, who have not entered into politics to a great extent. But what has been the result subsequently? What did we witness? Sir, not only political persons but most partisan people sometimes were appointed Governors in different States by the ruling party in the Centre. There are so many examples. Sir, this post of the Governor has been used by the ruling party in the Centre to accommodate rejected politicians of the country by giving them berths in the post of Governors of States. And instances are not rare when a Congress leader was to be sent outside the State because of factionalism within the party, he was made Governor elsewhere. Such abuse has been made of the Governor. When the members of the Constituent Assembly laid emphasis on the calibre and qualities of the persons who will be appointed as Governors, here are cases, Sir, you know and I do not want to name, that a person against whom in the recent past there were strictures by the Himachal Pradesh High Court, he was

sent as the Governor of a non-Congress State in the South of our country. You know, Sir, a person who earned a bad name during the black days of emergency because of high-handedness, he was sent as Governor in the northern-most State of our country. This way this office has been abused. Sir, there is the other side also of the picture. Sir, you know that the Constitutions are not worked merely by applying in a mechanical way the provisions of the Constitution, in a literal way the letters of the Constitution. Many things are not generally written in the Constitution. But these are left to be shaped by healthy conventions, the maxims of the Constitution. You are certainly aware, Sir, how much did the framers of the Constitution—the debates in the Constituent Assembly bear testimony to the fact—rely on the development of healthy conventions regarding appointment of Governors in the States. Sir, they hoped that at the time of appointment of the Governor of a State, the Union Government, the Home Minister in particular would have a prior consultation with the Government of that State, particularly with the Chief Minister. But this hope has been dashed to the ground. On the other hand, many a time, a Governor has been imposed by the Central Government. Sir, what Shri Jawaharlal said in the Constituent Assembly? He said that a person to be appointed a Governor must be acceptable to the State, and that is in keeping with the healthy practice of cooperative federalism as distinct from a dualistic federalism. Sir, another side of the picture is this; In case of appointment and dismissal of Ministries, in the exercise of prerogatives under Articles 200 and 365 of the Constitution, and generally in exercise of powers which call for the discretion of the Governor, the Governors in different States acted differently under similar circumstances in accordance with the wishes of their real master sitting in the Centre. In so many ways this post has been abused. Hon. Members must be knowing how during the second Left Front Ministry in West Bengal one hon. Governor did engage himself in internal party politics of the State and how he obstructed the will and

[Shri Mostafa Bir Quasem]

intention of the democratically elected Legislators of that State in withholding a Bill—the Calcutta University (Amendment) Bill, 1984—which did not contravene in any way any legislation enacted by the Central Government whatsoever. He did that. There were cases where for specific purposes, specific people were sent to the States., Sir, the post of the Governor has been frequently associated with abuse of power and violation of constitutional norms. What happened in the recent past in Andhra Pradesh, in Jammu and Kashmir and in Sikkim? All these things are examples of political Governors plotting against electee representatives of the people, elected Chief Ministers. These ways, this office has been abused. So, I think, viewed from this angle, this post has been relegated to a position of non-respect before the public eyes in our country and it needs immediate abolition, and a separate institutional arrangement can be made to maintain a channel of communication between the Central Government and the State Government. Instead of doing any good, it has already done a lot of harm to the otherwise fragile fabric of federal polity in our country and its abolition will mean removal of at least one irritant in the strained Centre-State relations in our country. You are aware that in federal Constitutions including that of USA, Canada and Australia, need for an intermediary between the federal government and the federal units is not felt. It should not be otherwise in our country. As I was saying, an alternative institutional arrangement can be made and a sound mechanism can be worked out.

I would like to make a suggestion that if abolition of the post is not considered tenable, then the Governor must be free from the control of the Central Government. He should not be appointed by the Central Ministry. I would like to suggest that he may be appointed by the President on the advice of the inter-State Council, from a panel of names suggested by the State Legislature, and he would be given symbolic functions and he will have to discharge the functions in accordance with the advice of the elected Ministry of that particular State. The procedure for remo-

val should be as it is prescribed by the Constitution with regard to Supreme Court judges.

If this suggestion is acceded to, I would further suggest for provision for payment of pension to a Governor who has completed a full term in a particular State, so that he may be brought outside the clutches of the Union Government

SHRI SUKOMAL SEN (West Bengal): He functions more as Congress President • than as Governor.

SHRI P. N. SUKUL (Uttar Pradesh): I rise to support this very simple innocuous, • 9-line Bill that has been brought with the specific purpose of raising the emoluments of the Governors.

Sir the present emoluments of a Governor at Rs. 5500/- were fixed on 26th January 1950. Since then, there has been a colossal price rise. Whereas emoluments of all other persons, office-bearerSj executive heads, etc., have been raised, like President, Vice-President, Ministers, MPs, MLAs, Judges in whose cases the emoluments have been raised, the emoluments of the Governor have not been raised. And now the Government is going to do it to show proper justice to Governors in this respect. Last year, I was coming from a South Indian State and a Governor was travelling with me in the aeroplane and he was all the time saying: You MPs never raise the question of hike in our emolument. Our emoluments stand at Rs. 5500...

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): He or she?

SHRI P. N. SUKUL; It is a matter of great satisfaction that the emoluments of the Governors are now being raised, because emoluments of the President which

originally stood at Rs. 10, 000 were raised to Rs. 15, 000 and as I said in almost all case's, emoluments were raised but Governors were left out. I do not know why. It is good our Government is now is to raise their emoluments. Since 1950, the price of wheat has gone up by 6 to 700 per cent.

SHRI SUKOMAL SEN: They don't eat wheat.

SHRI P. N. SUKUL: Price of rice has up to 10 to 1200 per cent, and price of gold has gone up by more than 1500 percent. So, there is every justification for increase in the emoluments of Governors. Our Opposition friends have been saying that Governor's institution has been abused and a few of the Governors have not acted properly. They say that our Constitution-makers were very great men; they have great faith in their wisdom. But as regards Governor, perhaps, they did not agree with it. The institution of Governor has been provided in the Constitution because our Constitution is federal type and there has to be continuity in the administration of the State well. -If the State Assembly is dissolved-who will govern? If the Governor is there, who will govern? Therefore, it is for this specific purpose that the Governor is there and the Governor is nominated by the President. He is not elected. Deliberately, our Constitution-makers found it necessary that the Gov-should be nominated by the President. Only then, there can be proper understanding between the Centre and the State at least at the highest level. The Governor acts as a delegated authority of the President, an agent of the President, a representative, of the President. That is why the President nominates him. Of course, the President nominates him as per the advice of the Union Council of Ministers. This is what is envisaged by our Constitution, what was deemed to be proper for the purpose by our Constitution-makers.

Sir, the executive power of the State vests in the Governor. Just as at the Centre in the State also the Ministry works in the name of the Governor, My predecessor was just saying that the Governor

should not be a politician; a politician should not be appointed as Governor. I do not know why he says that. All people sitting here are politicians. It is a Parliamentary democracy. We are all politicians. Why should not a politician be appointed as Governor? A politician will be able to function better. Today, you are saying for the Governor; tomorrow, you will say the same thing for the President. Once a person becomes President or Governor, he is not a politician. They do not function on party lines

SHRI MOSTAFA BIN QUASEM: Is it?

SHRI P. N. SUKUL: Of course. So is the case with the Speaker. Your party-man is elected as the Speaker. If somebody says that he should not be a party-man, what will you do? Therefore, there is nothing wrong in a politician being appointed as Governor. Since they are to act as per the provisions of the Constitution and as per the directions of the President from time to time, there is nothing wrong about it. Of course, you may say that one particular Governor did not use his discretion very well. You cannot criticise his discretion. His discretion is his discretion and under the Constitution, the Governor's discretion cannot be taken to a court of law, cannot be discussed even. Naturally, person who occupies that high office is supposed to have certain discretion of his own. He has to evaluate the political situation in the State the situation of the political parties inside the Assembly and then he has to recommend what to do and what not to do. If he is a politician, it is all the more better. He can do proper justice.

Sir, what happened during 1977? There was a different party at the Centre. Mr. Morarji Desai was the Prime Minister. All Governors who were appointed at that time belonged to his party only. From the Congress-ruled States, nobody objected to their appointment and nobody criticised them.

SHRIMATI RENUKA " CHOWDHURY (Andhra Pradesh); In the case of salaries?

SHRI P. N. SUKUL: What are you talking? I am saying, Congress Ministries in the States did not object at that time

[Shri P. N. Sukul]

when only people from the Party ruling at the Centre were appointed as Governors. When a person becomes President or Governor, he takes oath or affirmation. He has to swear in the name of God or he has to solemnly affirm. As regards the oath, in the case of the President and the Governor, it is one and the same. Therefore, for all practical purposes, the functions of the President *vis-a-vis* the Union and the functions of the Governor *vis-a-vis* the State are one and the same. I would like to quote here article 60 concerning oath or affirmation by the President;

"I... do swear in the name of God| solemnly affirm that I will faithfully execute the office of President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India".

This is in respect of the President. For Governor it is given 12. 00 Noon in article 159. Listen to what it says, I quote:

"I, A. B., do swear in the name of God/solemnly affirm that I will faith fully execute the office of Governor (or discharge the functions of the Governor of.... (name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and, that I will devote myself to (he service and well- being of the people of.. (name of the State)".

This is exactly the same wording. So, what in- the context of the Union is expected from the President, in the context of a State is expected from the Governor. So there is nothing wrong with the provision of the Governor and with the appointment of Governors, rather with their nomination by the President.

Now, Sir, there being no two opinions that the Governor's office has to be there, it must be there and it must be. up to the sweet will of the President to appoint a Governor on the advice of the Council of Ministers, as I said in the beginning, the proposed hike in their emoluments is also quite in the: fitness of things.

Since it is a matter relating to hike in emoluments, I will take this opportunity to say about our MPs. also. We are raising everybody's emoluments, but we are not doing proper justice to ourselves, that is M.Ps.

MR. CHAIRMAN; The subject, though not relevant, is important.

SHRI P N. SUKUL; In this very session the Tamil Nadu Government has increased the daily allowance of its members from Rs. 50 to Rs. 100 per day. In the case of MPs it is still Rs. 75, a very paltry amount and you will agree that there is a lot of difference between Madras and Delhi. Our Members who live here, they do deserve at least what the MLAs get in States by way of daily allowance. They do not work less or less sincerely. Not only that, in so many States the house, the electricity, the water, is all free, but in our case it is not free. We have to pay for, electricity, for water, even rent for our house of certain category. So, that justice shown to MLAs in the State can also be shown to MPs.

SHRI NIRMAL CHATTERIEE; That justice has to be shown for the Plan bud-' get also.

SHRI P. N. SUKUL; In the end I will make one suggestion that the Government has provided 16 intermediate journeys for MPs.

MR. CHAIRMAN: No, no, there is a limit. You cannot go on like that. Now Mr. Sukul will sit down. Yes, Mr. Gurupadaswamy.

SHRI P. N. SUKUL; The case of spouse should also be considered. With this I suport the Bill

MR. CHAIRMAN:, Some latitude can be given but you cannot go on Yes, Mr. Gurupadaswamy.

SHRI VALAMPURI JOHN (Tamil Nadu); Sir, it is my turn.

MR. CHAIRMAN: Your name is not here. No, it is not here. I am very strict. Yes, Mr. Gurupadaswamy. Now you will get your turn later.

SHRI M, S. GURUPADASWAMY (Karnataka): Mr. Chairman, Sir, I am

d that the institution of Governor has been set up for discussion, at least under the text of raising their emoluments. I am against the objective of giving more money to the Governors, but I am on a different issue which has already been raised by my colleague on this side of the House.

[The Deputy Chairman in the Chair]

As regards the institution of Governors, it is a costly anachronism. I repudiate the argument of my friend, Mr. Sukul, that this institution is a federal device and it is necessary to maintain this institution to maintain federalism in this country. May I ask him whether federalism will go down, will not be maintained on abolishing the institution of Governors? Is it his contention that this institution is important, unavoidable and vital to the federal character of the polity, to maintain, in other words, the equilibrium, balance, the poise between the Centre and the States? In my humble view it is not necessary. Mr. Sukul rightly raised one point to defend his argument; what happens to a State where there is a breakdown of law and order and breakdown of the constitutional machinery? and he asked; in such a situation should there not be an institution to maintain the continuity and also to ensure the federal character of the system? For that my answer would be very simple. We have misused and abused the institution of Governors so much and so long that we have been forced to think that without Governors federal polity cannot be maintained in the States. Suppose there is a breakdown of the constitutional machinery and law and order. And the crisis will arise only when there is a serious breakdown of law and order, the Government cannot control the law and order situation, or there is a breakdown of the constitutional machinery if the Government of the day loses its majority in the State Legislature. With regard to the first, it is a question of assessment, it is a question of judgment whether the law and order has failed or not. We have seen in the past that in spite of Governor's rule, the President's rule in the State law and order has not improved at all but has deteriorated. I cite the case of Punjab which was referred to earlier in Punjab the law and

order situation, when the Governor was ruling that State, was not better than the law and order situation as it exists today. Therefore mere Governor's rule will not ensure better law and order in a particular State. This is our experience.

Suppose, as I said, the latter thing happens—i. e., the Chief Minister loses his majority in the legislature, in the Assembly. Then the course is very simple. He has to dissolve the Assembly and go for elections. In case in the elections his party is defeated, he has got to step down and some other Government has got to take over. Therefore, it is not necessary to have the institution of Governor in a federal polity like ours where powers of the State are less and powers of the Centre are more. That is why I said that the institution of Governor is an anachronism, a costly anachronism, a very expensive device.

Next, I said, the institution of Governor has been misused and abused. It has been: misused and, abused by the party in power at the Centre. I do not mention that only the Congress is guilty. Let any party be in power at the Centre, the party at the Centre can misuse this provision of the Constitution for its own political ends. And the Congress has been in power for long years, with a short interregnum. We have seen how the institution has been abused by the Centre to suit the partisan ends of the Government, the political ends of the ruling party. The reports of the Governors are called for by the President—which means by the Prime Minister, by the Government of the day—to suit its own convenience and then the Government has imposed the President's rule or the Governor's rule at will, without other considerations. It has been applied more blatantly in cases where non-Congress Governments ruled the States. Therefore, the institution of Governor has become a servile instrument of the ruling party at the Centre to perpetuate its will to establish its rule over the States which were otherwise ruled by other parties.

Regarding the appointment of Governors' the less said the better. There have been no conventions or norms set by the Centre in appointing Governors. All sorts

[Shri M. S. Gurupadaswamy]

of people are being appointed. In the olden days, at least there was the satisfaction that the well-known freedom fighters, the well-known nationalists—the leaders— would go as Governors. But now people who were Judges, people who are bureaucrats and ex-Army Generals are appointed to suit the convenience of the ruling party at the Centre. Therefore, my charge is, there has been progressive erosion of conventions and norms, if there were any, in appointing good men as Governors. Many a time Governor have acted most ingloriously, in a manner which is not befitting them, to suit the convenience of the Centre and the party which is the ruling party at the Centre. It has happened in Andhra, it has happened in many other States. How can the Governor dis-appoint Chief Minister when his majority is not questioned by the State Legislature? We have opted for a parliamentary system of government, not only a federal system of government. In a parliamentary system the forum which decides the fate of the Chief

Minister is the Legislative forum, as we do here. The forum which decides the fate of the Prime Minister is Parliament; not the Rashtrapati Bhawan. The same thing should apply in the case of the

States: How can the Governor recommend the dismissal of a Chief Minister whose authority still runs whose majority still is there?

Why this costly outfit? For whom? It will not benefit the democratic functioning of the system. It governs the *Subedars* of the Centre. Once upon a time during the Moghul period the representatives of the "Subedars". They were there to carry out the wishes of the Delhi *Darbar*. Even now the Governors are acting according to the sweet will of the Delhi *Darbar*. Therefore, Madam, the institution of the Governor itself is anachronistic; anomalous, unnecessary in the existing circumstances, and the institution should be abolished. I wish my friend, the Minister, had brought a Bill to abolish the institution itself instead of raising the emoluments of the Governors. So long as these Governors are there, you give them

the emoluments, I have no objection. But abolish the institution itself. It is unnecessary, it is not essential to maintain the federal polity.

Finally, Madam,.... (*Interruptions*).

I said. "It is not necessary to maintain federal polity". I said, "The institution of Governors is not necessary." That is the theme of my short speech. It is not necessary at all. The Chief Minister alone should be the head of the Government there, any nobody else should supervise his

activities. The only authority which can control the Chief Minister and his government, is the Legislature and the Legislature alone. Here, the only authority which controls the Government at the Centre is Parliament and Parliament alone, not the Rashtrapati Bhawan. The same has to be in the case of the States. Therefore, Madam, I am for abolition, early abolition of the institution of the Governors.

Secondly, so long as this institution subsists, this medieval, feudal institution standards and norms should be observed in appointing Governors. Every Tom, Dick and Harry should not become a Governor. Eminent men should become Governors till then, I say.

Lastly, I do not want that the Judges Courts or the Supreme Court, who retire or the Chief Election Commission should become Governors.

You are creating a nasty tradition. You are polluting the institutions of Judges and Chief Election Commissioners by offering them temptations. Therefore, I suggest after retirement they should not be appointed to any other high office. Similarly you exclude the ex-Army Chiefs from appointment as Governor in any State. Instead you appoint public men or scholars as Governor

With these words, I once again say that I do not object to the Bill, but I object to the continuance of the institution of Government

SHRI SANTOSH KUMAR SAHU (Orissa): I rise to support the Governors (Emoluments, Allowances and Privileges) Amendment Bill, 1987.

Before me, very many speakers objected to the institution of Governor. But I would like to point out that many times this Office has been occupied by very many dignified persons. Of course, there have been some occasions in the history of the nation when this Office came under attack, support the abolition, of this institution. If you have a headache it does not mean that you cut off your head. The founding fathers of our Constitution while making our federal constitution also included a unitary bias in it. This was necessary because India is not only a country, but is also a sub-continent with different cultures and languages. Today, when we are speaking here in Parliament, we know self-tendencies are being spread here. Therefore, while we speak, it is necessary to keep sure that national integrity in the form of good and effective administration and goodwill is kept supreme. It is true that in the history of administration in the last forty years we have now come to a stage where we must review the role of the Governors, but only from the point of view of seeing that the federal structure is strengthened and that the State relationship is made smoother. As I said in the beginning, this high Office in the past. So, in the interest of the nation its role can be fitted in tune with the time to enable better administration of the country. Now coming to the provisions, Article 153 says: "There shall be a Governor in each State."

If we go through the proceedings of the Constituent Assembly we will find out why we have maintained the Office of Governor. It is not only a legacy from the British, but the Cons-

stituent Assembly deliberated over it. Article 154 of the Constitution says:

"The Executive power of the State shall be vested in the Governor and shall be exercised by him or through Officers subordinate to him."

So, if we go through the discussions in the Constituent Assembly, we will find that the founding fathers felt the necessity of this institution because in this country we must have a federal structure. It is necessary to have some balance between the Centre and the States when occasions arise.

Now, coming to the present amendment, it was pointed out by the hon. Minister that under Article 156(3) the Governor holds office for a term of five years. It says:

"Subject to the foregoing provisions of this Article, - the Governor shall hold office for a term of five years."

Article 158 says,

"Whatever benefits or emoluments (i.e. Rs. 5,500), they shall not be diminished."

In this Bill the Minister has said it should be increased. There is a rationale behind it. Though I support this Bill, I humbly say we should not assess the degree and dignity of the post in monetary terms. In today's world whatever emoluments are given to the man occupying the highest Office; we cannot give him emoluments more than what an industrialist draws. So, in monetary terms we cannot have comparison. Keeping that in view, I feel there is no need for increasing the emoluments. Instead of increasing the emoluments, we should find out how the dignity and value of this post is enhanced. We are in the vortex of conflict in the modern society. We should not compare it on analogy of who gets more - Sepoy or Subedar; what we should compare is the powers and responsibilities attached to a post. In a welfare and

[Shri Santosh Kumar Saha]

socialist State like ours, why should there be so much -increase, in emoluments of the Governors? We should be more considerate to the people who are below the poverty line. We, must be more sympathetic to them. In a welfare and socialistic set-up there must be some relevance between the highest and the lowest paid salary. The difference must not be a hundred or a thousand times more. In the present set up, if a man is not satisfied with Rs. 5, 500, he would not be satisfied with Rs. 11, 000 also. In this way there will be no end.

Coming to another point, I would humbly submit that I am opposed' to any Act which gives benefit with retrospective effect. If we feel that some emoluments are to be increased, they should be increased from the date the Act is passed and not with retrospective effect. This is my personal feeling as a lawyer and also as an MP. But I disagree with my friends who say that this post is unnecessary. Here. I would say that we require a new constitutional outlook where the role of the Governor is made in tune with the modern society and the developing relationship between the Centre and the States. In the course of this process, there might be some errors, but there must be good thing also. So, let us not say that every thing is bad. We should not look at it with a jaundiced eye. I personally feel the Office of the Governor is very necessary. That is why our founding fathers after due consideration gave it to us. Of course, the process of selecting eminent candidates can be reviewed and a consensus can be arrived at after a debate. That will enhance the prestige of the post and they will also be able to discharge their duties in a better way.

With these words I support the Bill.

*SHRI VALAMPURI JOHN: jam. eputy Chairman, A right that

, English translation of original speech delivered in Tamil.

is not used or utilised is forfeited. That is why, only to reiterate privileges and rights to speak in Tamil, I choose to switch over to Tamil • today. As the Hon'ble members, who know English prefer to speak in Hindi, I also want to make my speech in Tamil though I know English, only to protect the rights. As regards the Bill that is introduced to enhance the emoluments and allowances of the Governors, my party has no objection. Yet I wish to bring to the notice of this august house, what has been said by Alexander Campbell in his book titled 'Heart of India'. He says that, in a country where the difference between the minimum wage and maximum wage is the highest, corruption is unavoidable. He further states, that in India, the difference is as high as 420 per cent. Therefore, on seeing this Bill seeking to enhance the emoluments of the Governors, I am reminded of Alexander Campbell and think whether we still contribute towards the prevalent corruption by keeping the maximum wage and the minimum wage too distant from each other. Question arises whether the Government is interested in enhancing the salary of its employees as it is interested in the case of Governors.. Hon'ble Member Shri Sukul said that while travelling by air from the South a Governor, who was with him, told Sukul why he cannot raise the issue of enhancing salary of Governors in the Parliament. I can easily guess who could have been the Governor he referred to. But, I am not going to name him now. What I want to hammer home is that, the Governor's only concern was his salary and not the interest of the State. He did not tell the Honble Member about the severe drought situation, acute Scarcity of water' and pathetic ^{Delight} of the people of his State _ Nor did he ask member toHous- to seek Centre's assistance. So, when we think of Governors whose interests centre only around their salary and not On the well being

of the people, we are compelled to think whether the Institution- of Governor is required at all. The Constitution describes the institution of Gov-ur to the effect that it is a dignified symbol of the Federal Government. Ever since its institution, the Office of the Governor has been a sententious puppet prattle. If he is the symbol of Federal democracy his function is of two-fold. He should not only be a representative of the Centre but of the State as well. Or else, the idea of Federal set "up will be trampled down. But the Governors, only report to the Centre about the happenings in the States. I wish to know, if any Governor at any time pleaded for his State at the time of distress. I have a specific question for the Minister. Many States are in the grip of severe drought. I would like to know if any Governor has approached the Centre seeking its assistance to tide-over the drought situation. So, the institution. of Governor, hampers the very basic ideal of Federal Government - The Governors only report what happens against the interest of the Centre in the States. When the people are in tears and distress, the Governors do not even convey the agony of their people.

I do not deny that there have been able and eminent Governors. ' When Mr. K. K. Shah was the Governor of Tamil Nadu he learnt Tamil so that he could easily communicate to the . people of his State and appreciate and involve himself in their cultural heritage. Even Governors like Mr. Khu-rana in Tamil Nadu takes due interest in the affairs of the State. Mr. Khu-rana identifies himself with the people of Tamil Nadu, and takes great interest in their cultural ethos in a pronounced fashion. But what happened in Andhra Pradesh? The Chief Minister Mr. N. T. Rama Rao has been having strained relations with the Governor of his State. As we see, the roles and functions of the Governor do not seem to support the federal democracy as described in the Constitution. Mr. Sukul raised a question that, who would rule the State when

there "is no legislature. I ask Hon'ble Member who rules even when there is a Legislature in the State? It is the Governor, who virtually rules, even when there is an elected legislature. It is told that the Legislature and the Government rule, but practically it is the Governor who rules. As far as the relationship between the Centre and the State is concerned the States are but glorified Municipalities. The Governor functions only when the Centre wants to dismiss a State Government. Quite obviously, the Governors do not take interest in the affairs of the State, nor do they report the plight of the people in distress. Mr. Gurupadawamy and a few Hon'ble Members argued for the abolition of the institution of Governor They have been compelled think along those lines because, institution of Governor is against the norms of Federal Government. Sukul argued in favour of appointing politicians as Governors. But, there is a basic difference between a politician and a partisan party politician. When politicians of the latter category are appointed Governors, they function only to spy out the happenings in State and report that to the Centre. The people who are appointed Governors these days are politicians who have been outrightly rejected by the people: who have lost in the elections. They find- better rewards as Governors for having lost in the elections. Office of Governor has become a political sanctuary for the disgruntled politicians rejected by the. peop This situation must change. I want to specifically say one thing. There is a wide range of differences between I Lt. Governors of Union Territories -like PondicHerry and the Governors of States like Tamil Nadu. In States the Governros are bound by the advice of the Council of Ministers. But in Union Territories the Lt. Governors do not submit to the wishes of the Council of Ministers. Rather they prefer to carry out the wishes of the Centre. This anomoly in power and partisan attitude must change. I bring to the notice of the Minister

[Shri Valamptiri John]

Articles 74 and 163 of the Constitution that are contrary in spirit. Article 163 says, I quote: "There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion."

We should look at the basic difference between Article 74 and Article 163. If these contradictions are not removed many more would be forced, to think towards the time of abolishing the very institution of Governor. And the Governor also have the powers to promulgate ordinances. The Supreme Court has severely condemned the misuse of such powers in at least 7 cases. But without caring for that, the Government have continued to vest such powers with the Governors. Therefore, Office of the Governor is like an ornamental and glorified Victorian Chair. I do not oppose the Bill which provides more emoluments to the Governors. All that I wish is that the Governors should not function like the agents of the Centre, but should take more interest in the affairs of the State and the well being of the people.

Thank, you, Sir.

THE DEPUTY CHAIRMAN: Yes, Mr. Upendra.

SHRI PARVATHANENI UPENDRA: Madam Deputy Chairman, ' I rise to oppose this Bill. /

Madam, I oppose this Bill on the ground that the institution of Governor itself is the sixth finger and it is an institution which is often misused and it involves wasteful expenditure. After so many years of its functioning, we have come to the conclusion that the Governor has no useful role to play in the working Constitution or in the administration of the State. Therefore, I oppose this-

Bill and I oppose any enhancement of the salaries of the Governors.

Madam, when we discuss about the Governors, the question arises about the mode of their appointment. Under Article 155 of the Constitution the President appoints the Governors. But, actually, the Governor is the nominee of the Central Government and functions as such. But there was an interesting ruling by the Supreme Court in the *Hargovind Pant Vs. Dr. Raghukui Tilak*, AIR 1979, S. C. 709:

"The Constitution Bench of the Supreme Court unequivocally held that the Governor, though he is appointed by the President, which means, in effect and substance, the Government of India, is not subordinate or subsequent to the Government of India. He is not amenable to the directions of the Government of India nor is he accountable to them for the manner in which he carries out his functions and duties. He is an independent Constitutional office which is not subject control of the Government."

This was the Supreme Court ruling. But, in spite of this judicial pronouncement by the Supreme Court in significant respects, the actual practice bears no relation to the Constitutional position and the Governors function as the agents of the Central Government, in fact, as the spies of the Central Government. However noble or moral, a Governor may be, however successful or statesman like he may be, however thoughtful and subtle he may be, he is like a marionette whose strings are pulled by the Prime Minister. Therefore, the very method of appointment and the mode of functioning make this post irrelevant and absolutely useless. and, when we come to the qualifications, there are no set guidelines and there are no set criteria. As our friends mentioned earlier, these officers are used by the ruling party to rehabilitate some rejected politicians or politicians who

and who have to be shunted out from

their own States and such people are put as Governors in some other States far away. This tendency to appoint their own people, politicians and people who are not eminently suited to these posts, was there all through. Even during the Jananta time also we found that some people whom I am constrained to call as museum pieces, were appointed as Governors. How.. atrociously some of them behaved afterwards, one in Haryana Raj Bhavan—we are all aware of their doings also. We find that some of them having been removed from I the Central Government—may be Ministers, Deputy Ministers, Ministers of State and Cabinet Ministers—for various reasons, they are ibilitated as Governors in various. Stales. Because of their calibre they do not inspire, any confidence among the people, and the very office of the Governor is degraded and it does not command any respect. Even in regard to the appointment also the earlier tradition of consulting the State Government been done away with the present Government. Even Jawaharlal Nehru after statin? that the Governor should be a more de- ed figure who was not intimately con-local politics and factions in the province, added categorically that he must be acceptable to the Government of the provinces. As against this sound, noble declaration of the founding fathers of the Constitution, we have got the recent statement of the present Prime Minister, "it is our inalienable right to appoint anybody we want and we need not consult the State Governments. "

Then. Madam, when they think of raising their salaries, I am constrained to refer to the expenditure incurred on these Raj Bha-v ins also. So much expenditure is there on tours, on parties on dinners, on....

THE DEPUTY CHAIRMAN-. This will go or, record. You can say cultural shows. '

SHRI PARVATHANENI UPENDRA: That is not unparliamentary. What is this? "Okay, cultural shows. I do not know the figures of various Raj Bhawans. But as far he Raj Bhavan in Andhra Pradesh is concerned, the total expenditure which was

*Not recorded.

Rs. 16 lakhs in 1978-79 has gone up to Rs. 51 lakhs in 1986-87. Madam, in one year. it has gone up by Rs. 19 lakhs from Rs. 32 lakhs to Rs. 51 lakhs. On what is this spent? Madam, there are tours. I do not want the Governor to confine himself to the Raj Bhavan. He should mix with people, it is good. But there should be a purpose f^r these tours. They are not supposed to run parallel governments in States, particularly non-Congress Governments. But some of the Governors have been sent for the very purpose of running a parallel government there. Therefore, they go on extensive tours of various districts, organize functions, criticise the State Government in the name of some organisations, criticise the State Government indirectly, collect local party people, belonging to their own party and create controversies. Let me quote one example of Andhra Pradesh. Madam...

SHRI CHINTAMANI PANIGRAHI: Can you criticise the Governor like this?

SHRI PARVATHANENI UPENDRA:

Oh, yes. When we are paying, why can't I criticise? I have not brought the subject. You brought the subject., (*Interruptions*) I am only giving an example. I am not using unparliamentary language; I am not attacking personal'y. You have brought the Bill. I have the right to refer to the incident Why not?

SHRI CHINTAMANI PANIGRAHI: The Bill is only for a limited purpose.

SHRI PARVATHANENI UPENDRA: The whole gamut will come.

SHRI V. NARAYANASAMY (Pondicherry): You want that the. Governors should be the stooges of the Chief Ministers.

SHRI PARVATHANENI UPENDRA: We do not want any stooges of the Chief Minister or the Prime Minister. In 1986, the Governor of Andhra Pradesh wa on tour on' 123 days.

SHRI MURLIDHAR CHANDRA KANTBHANDARE(Maharashtra):Or

SHRI PARVATHANENI UPENDRA I am giving you illustrations. The public money is wasted.

SHRI MURLIDHAR CHANDRA. KANT BHANDARE; Madam Deputy Chairman, we are discussing one of the most important issues, *i. e.*, the role of the Governor. I think there is enough to be said on that subject. But at the same time I don't think it is permissible for any Member in this House to refer to, the Governor of any particular State because the Governor is not in a position to rebut those charges. He cannot explain as to why he incurred such and such expenditure and why he went on tour. There is no way for him to defend himself. You say that a Governor of a particular State went on tour so many times. Is it permissible? I think not.

THE DEPUTY CHAIRMAN: No Personal reflections should be made. You can discuss in a general way.

SHRI PARVATHANENI UPENDRA; I am referring only generally. I am not mentioning any names. One Governor of a State went on tour for 123 days in 1986 out of which 33 days were outside the State. In one month in September the Governor was away to New Delhi and Srinagar for 7 days. Immediately after that, she was away for 4 days in Madras, Madurai and Kodaikanal. Immediately following that, she was in New Delhi and Bombay for 6 days and 2 days in Indore.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: I strongly object. What are we doing? We are lowering the level of the debate. I request that all this should be expunged.

SHRI PARVATHANENI UPENDRA: Why should it be expunged? I gave it only as an illustration. (*Interruptions*)

THE DEPUTY CHAIRMAN; Please maintain the high level of the debate-.

SHRI PARVATHANENI UPENDRA: If they don't provoke me, I will keep the level of the debate high.

(*Interruptions*)

THE DEPUTY CHAIRMAN: I will request the hon. Member not to make any personal charges. This would not be according to the docorum of the House.

श्री जगदम्बी प्रसाद यादव (बिहार) :
अगर राजभवन कांग्रेस की सीटिंग एटेंडेंस
करने जाते तो क्या हम इसके
रेफर नहीं कर सकते हैं ... (व्यवधान)

SHRI PARVATHANENI UPENDRA; Madam, I don't make any personal reflections. It is public money with which we are dealing. I only gave an instance of how public money is being wasted. I have every right to say that. After all, we should be conscious of that, if any criticism leads to some economy, I should be happy and you should be happy. I find that most of the Governor leave their States of posting and most of the time they are in their native States. I can quote many instances. The Governor of Rajasthan is in Bombay and the Governor of Bihar is in Andhra Pradesh. I don't object to their going to the native places. But they have some obligation to their State of posting. But they create occasions to go to their native States for some minor functions. It is all public waste. They go with big paraphernalia, with A. D. C. and all that. My concern is about the expenditure. It is waste of State hospitality. This should be avoided. There is a rule also that whenever, the expenditure in Raj Bhavans increases, the prior sanction of the President of India has to be obtained. I hope Mr. Pani-grahi will clarify whether this is being taken at all. I want to know this because the State Governments are paying. Secondly, there is also a rule that whenever they leave their State, they have to take the permission of the President of India. My information is that most of the Governors do not observe that propriety of informing the President of India that they are moving outside the State. And I want to know how many are observing and how many are defying that. If the Minister challenges, I can give the names. But I am not giving the names. The Minister should check up on this point also.

And there are so many other activities that are happening. I raised in this House earlier with the permission of the hon. Chairman through a Special Mention that one of the State Governors is the President of a voluntary organisation and collecting funds to the extent of Rs. 5 crores through that voluntary organisation and without any organisation to account for it. And who will check it, who will check the misuse? And it is happening. In the name of some organisations, crores and crores of rupees are being collected which the Governors are not supposed to enter into. The Minister of State for Home should take note of it. It is a very undesirable activity on the part of the Governor because when the Governor is the President of an organisation, naturally people will immediately contribute and there is no organisation to check, nobody will question them and, therefore, there is a scope for misuse. That should be avoided also. (*Time bell rings*). I am concluding. In a democracy, when we are strengthening our democracy, when the elected Chief Minister are there responsible to the people responsible to the Legislature, imposing an agent of the Centre to spy on the activities of the State Governments is quite undesirable. It is an anachronistic system. It is a colonial system which is still being continued. It must be abolished. Somebody raised the question. Who will perform these duties? What duties? What are the duties which the Governor performs except a ceremonial function which the Chief Justice of the State can easily perform. Swearing in the Ministry or some such thing can be easily done by the Chief Justice of the State. That duty can be assigned to the Chief Justice. In fact, several times the Chief Justices are officiating as Acting Governors when a Governor is transferred or a new Governor is not posted. Therefore, these by the Chief Justice of the respective State. ceremonial functions can be looked after. The sooner this institution is abolished, the better it is. I, therefore, totally oppose this Bill. Not a pie should be paid more to these Governors.

SHRI MURLIDHAR CHANDRA KANT BHANDARE: Madam Deputy Chairman, the Bill is really innocuous. In fact the reasons for not supporting or opposing which have been expressed by the Opposition -are really not germane to the main debate. What I felt is—and I may take this as an occasion to express this—that if we really respect the dignity of labour which we must, the first thing we must do is to pay appropriately anyone who does some work in his life. Look at the Members of Parliament themselves. We are being paid so miserably low, such a pittance. Why? It is because there is a feeling that the Members of Parliament should somewhat work like, missions! But they have to maintain two establishments—one in their constituency and the other in Delhi. And we get barely Rs. 2, 250. I do not know how one can live with it. But we are building up a society. We are saying, by the expression of opinions, as has been done in this House, 'do not pay'. Then everybody asks; How do you manage your affairs in Rs. 2, 250? How do you manage two establishments in these days of 1. 00p. m. inflation? Therefore, today the need is to build up a society where we respect the dignity of labour and pay ' properly for the functions which he is discharging. And to that extent, I must welcome the Bill and congratulate the Government because it has taken steps in the right direction. First thing it has done is to raise the salaries of the bureaucracy which has stagnated for a very long time. Unless they have that economic independence, unless they have that status to discharge their duties fearlessly and without favour, I think it would be extremely difficult to have efficiency in the bureaucracy. I also congratulate the Government for increasing the salaries of the Supreme Court judges and the High Court judges. They had also stagnated for a very long time, and it has been established that independence of judges can be secured by the security of their conditions of service, and that is why, their tenure is secured and their salaries are secured under the Constitution. This is one logical step in the right direction. I know there is a lot to be said because when we go through

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rich experience of 37 years, we feel a me comes to look at how our institutions have functioned and whether they have measured up to the expectations which were expressed by the founding fathers and the expectations of the successive generations, and whether they need any change or any remedial measures. All this is, of course, matter of debate, but we cannot think of overthrowing a system which has worked throughout so well and of not understanding the essence or the ethos of our Constitution. It is one of cooperative federalism. It is not a federalism in the classical mould; it is a federalism which is called co-operative federalism where the States are not independent of the Centre but the State and the Centre are inter-dependent. And to that extent, one must respect the sagacity, the wisdom, the foresight and the vision of our founders of our Constitution in providing this vital link between Centre and the State. I think if that link snaps, the whole Constitution will go topsy-turvy, including the intricate balance which has been there, which has been created by our Constitution. It is like human body's intricate mechanism. The other mechanism which really baffles everyone, when one looks at the intricacy of the balance maintained, it is our federal Constitution, unique in every way, and so fulfilling in its multi-dimensional approach.

Now, they do not say what should be done if the Governor is removed. I can understand if one can say that Governor can be an elected executive. That is something which is worth considering. But to say, as my friend Mr. Upendra said, that we do not want a Governor at all, or we do not want somebody who will preserve the Constitution for all times, there are times of breakdown of the Constitutional machinery in that I think that is showing a certain fitness not only of ideas but also of which govern the structure

if look at it, in any 5y cases where there have been occasional lapses, occasional aberrations. It is un-

fortunate that my friend has so much to say against his Governor. It is my good fortune—and I hope, Madam, you would re with me—that our State had a galaxy of the most distinguished Governors who have contributed to the political, social and academic life of my State, if I am here, to a great measure I owe it to the Governors who along with our Chief Justices, and Chief Ministers, were much a part of our pride. Therefore, singularly it is a case which cannot be really treated in a way he has put it. He has his own grievances. I still remember the day when one of our Members became the Governor of a State.

SHRI PARVATHANENI UPENDRA:
Nothing personal.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: I am not saying that. At that time, Mr. Upendra paid profuse compliments. I asked 'why do you give such profuse compliments?'

SHRI PARVATHANENI UPENDRA: I still say, I have nothing personal against our Governor. I respect her. She is a friend of mine even today. I only pointed out certain things which are happening in every Raj Bhavan. I do not have the information about other Raj Bhavans. That is why I gave the example of our Raj Bhavan.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Madam, let me come to the substance of the matter, - now. Speaking for the State at a time when the Centre-State relationship is under review, in the hands of one of the very eminent judges, Justice Sarkaria...

SHRIMATI RENUKA CHOWDHURY: On a point of order, Madam. We are not attending that we do not want one particular individual as Governor. In the present economic situation, what we are really examining is whether there is need for the office of the Governor. • Are we intending Governors arising out of any real need? Do we have this institution accommodate some people or do

we have real need for this institution? This what we should examine objectively. What was given was only by way of an illustration. Therefore, it is wrong to we cannot take an example to examine the thing.

! HE DEPUTY CHAIRMAN: There is no point of order. If you want, you can clarify

SHRI MURLIDHAR CHANDRAKANT BHANDARE: What should I clarify?

SHRIMATI RENUKA CHOWDHURY: Should I repeat? (*Interruptions*)

THE DEPUTY CHAIRMAN: She wants to say -that economically, it is not desirable. Otherwise, they have no objection.

SHRIMATI RENUKA CHOWDHURY: I did not say that. That is your interpretation.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: I must confess, with all great personal regard and (respect for the hon. Member, that she has left me a little bit confused.

SHRIMATI RENUKA CHOWDHURY: That is the stage we are left with Governors.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: I am coming to the substance of the matter.

There is scope that despite the fact that the power vests in the Prime Minister and the Cabinet to appoint a Governor, as suggested by the Setalvad Committee...
(*Interruptions*)

THE DEPUTY CHAIRMAN: No interruptions please. Mr. Bhandare, you address the Chair.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: As suggested long back by one of the most illustrious Attorney-General we had, I think, there is need to set a precedent where we do it in consultation with the State Government, particularly, if the State Government is ruled by Opposition. So far as my friend, Mr. Nirmal Chatterjee, is concerned, I can tell

him that a large number of articles, particularly, article 200, article 356, 365, 371(2), Part VI—Chapter II and many other provisions will be really negated if we were to abolish the institution of Governor. I think this was your question.

THE DEPUTY CHAIRMAN: Please conclude now

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Madam, the unity and integrity has been maintained in our country because of the very close interaction between the Centre and the States.

SHRI SUKOMAL SEN: You mentioned some articles. Are they sacrosanct?

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Here is the Constitution; you can read them.

THE DEPUTY CHAIRMAN: Please don't waste your time. (*Interruptions*)

SHRI NIRMAL CHATTERJEE: The point is a new something?

Can't you think of something else as an alternative which will not seriously jeopardise the structure of our democracy, the structure of our Constitution? It somebody is differently chosen to answer that point;

SHRI MURLIDHAR CHANDRAKANT BHANDARE: My views may not be acceptable to all the Members, but they are well known. Something which has worked well, something which has proved such a big success, I am not in favour of tinkering with it because somebody feels that we should think of an alternative. I do not agree with that. There has been, by and large, outstanding performance on the part of the Governors and I think a time has come to give them; the emoluments as provided in this Bill. It is in the fitness of things.

Then, there is one thing which can be done, namely, do not prescribe a second term for a Governor or, once he has served for one term, he will be ineligible to be a Governor elsewhere for a second term. This itself will be an effective safe-

[Sari Murlidhar Chandrakant Bhandare]

guard. It is done all over. The American President cannot get more than two terms. Excepting in one instance, there has only been one-term President in India. So, there is nothing wrong in saying that the Governors also will not get another term after they have completed one term.

There is nothing more that I have to say on Bill which should be noncontroversial, on a Bill which should not be an occasion just to air your personal differences with a particular person who happens to be a Governor. Well, the expenditure is there. I know what good work has been done by the Governors. For example, we have had All Yavar Jung. There were two Governors who came from Hyderabad. They have done very good work.

SHRI PARVATHANENI UPENDRA:
That is because they are from Hyderabad.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: The wife of Shri Ali Yavar Jung is doing a very good work even now in Bombay. I know how popular the other Governor, about whom you mentioned, is in Patna. So, please do not belittle the institution of a Governor just for the sake of petty prejudices and I will only hope, that in the years to come this institution of Governor will really be the protecting force to maintain unity and integrity of this country.

SHRI MADAN BHATIA (Nominated): Madam Deputy Chairman, I rise to support this Bill. The office of the Governor is a very exalted constitutional office. That the Governor should by his conduct by his behaviour, by his demeanour, should live up to the dignity of his office, on that there can be no two opinions. The question which is being debated before this hon. House is what is the constitutional necessity for having the office of the Governor? The amazing demand which has been made for the abolition of this office is based on total misconception of the constitutional obligations and the duties of the Union towards the States. It is a demand which is based on a premise

as if the Union has no constitutional obligations, no constitutional duties towards the States.

I would like to draw the attention of this hon. House to just one article of the Constitution and that is article 355 which I would read. Article 355 reads like this: *

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

This Article 355 of the Constitution was modelled on the basis of Article 4 of the US Constitution. Article 4 of the US Constitution says:

"The US shall guarantee to every State in this Union a republican form of government and shall protect each of them against invasion and on application of the legislature, or of the executive when the legislature cannot be convened, against domestic violence".

The hon'ble House will notice the difference. So far as the Indian Constitution is concerned, it has placed external aggression, internal violence or internal disturbance at par and also the duty of the Union in relation to the maintenance of the constitutional machinery in the State at par. So far as the US Constitution is concerned, it says that the US can intervene on its own, the federal authority can intervene on its own in order to ensure a republican form of government, in order to protect a State against foreign invasion, but so far as domestic violence is concerned, there has to be an application on behalf of the legislature of the State, or of the executive when the legislature is not in session, before the US authority can intervene. But this restriction with regard to domestic violence is not there in the Indian Constitution. But even when this restriction was there, in practice, the US Supreme Court, in a series of decisions, held that where it is impossible on account of domestic violence to have enfor-

cement of the federal laws in a particular State and the fundamental rights of the citizens are in jeopardy on account of the violence in a particular State the federal authority has the right in the discharge of its constitutional obligation irrespective of the fact whether there is any request from the State or there is no request. That is the basis of the constitutional relationship between the Union and the States.

How his particular article, which is on the lines of Art. 355 of the Indian Constitution, "was interpreted, I would like to draw the attention of this hon. House to two or three Judgements of the US Supreme Court because Art. 355 has so far not come up for consideration before the Indian Supreme Court. The first was *Luther Vs. Borden*. Here the question was whether the intervention of the federal authority was constitutionally proper or it was not proper. And the US Supreme Court said—I quote:

"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 of little value".

This very question came up for consideration in another very famous case which is known as *Debs's case* in which Supreme Court said—and I quote.

"No trace is to be found in the Constitution of the United States 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 good order is not within the powers confined to the Government of the United States but belongs exclusively to the State. Here again we are met with the theory that the Government of the United States does not rest upon the soil and extend over the country. We hold the territory of the United States on the principle that the Government of the United States may exercise physical force through its official agents upon every part of the American soil the pu-

wers and functions which belonged to it. This necessarily involves the power to command obedience to its laws and hence the power to keep the peace to that extent".

In another case—that was *ex-parte*—the case of *Albert Siefold* in which the Judges of the particular State were convicted because they sought to obstruct the functioning of the Marshals appointed by the federal authority in order to hold the elections and they challenged their conviction on the ground that this was an encroachment on the powers of the States, the Supreme Court said:

"Without concurrent sovereignty, the national government would be nothing but an advisory government. Its executive power would be absolutely nullified."

I respectfully submit, Madam, that it is the constitutional obligation and duty of the Union to uphold the fundamental rights of the citizens, wherever they are. It is the constitutional obligation and duty of the Union to protect every State against any internal disturbance or domestic violence which makes it impossible for the implementation of the laws made by the Parliament of the country. It is the constitutional obligation and duty of the Union to uphold the basic principles of the Constitution. Say, secularism of the country, which can be put into jeopardy. So many times it has happened on account of communal disturbances. If this be the position, then what is the position of the Government, error?

The position of the Governor is a dual position. In one respect the position of the Governor is that the Governor is merely a constitutional head of the executive of the State. But, in view of these constitutional obligations and the duties which are enjoined upon the Union towards the State, the Governor is also there as a symbol of the Union in the States and he is the eyes and ears of the Union in order to enable the Union to discharge its constitutional duties. The distinction is built in article 163 of the Constitution itself. I draw your attention to article 163, which says:

[Shri Madan Bhatia]

"Council of Ministers to aid and advise Governor—(1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his function, except in so far as he is by or under this Constitution required to exercise functions or any of them in his discretion."

this is the distinction between the power and position of the President and the power and position of the Governor. So far as the President is concerned, there is no exception. He is to act only on the aid and advice of the Council of Ministers. But, so far as the Governor is concerned an exception. He is, in a general way, to act on the aid and advice of the Council of Ministers, but where he is required to act in his personal discretion, then he is not bound by the aid and advice of the Council of Ministers. Which is the article which gives an indication that there is a discretion on the part of the Governor? It is only that article which shows the constitutional obligation and the duty of the Union towards the State.

SHRIMATI RENUKA CHOWDHURY:
Which article?... *(Interruptions)*...

SHRI RAM AWADHESH SINGH:
Which article?... *(Interruptions)*...

SHRI MADAN BHATIA: And that is
Article 356... *(Interruptions)*...

Excuse me, you may not agree with me.

SHRIMATI RENUKA CHOWDHURY:
He is only seeking a clarification.

SHRI MADAN BHATIA: Article 356

"If the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provision of this Constitution, the President may issue a Proclamation." Why does article 356 say that the Go-

ernment of the state cannot be carried on in accordance with the Constitution and the President can issue a proclamation? Article 356 says that the Governor will give a report to the President. Who will be in a position to act as the eyes and ears of the Union in order to enable it to discharge its solemn constitutional obligation under article 355. It is only because this constitutional obligation is there on the Union that article 356 says that the President may intervene when there is a breakdown of the Constitution. And for that purpose the Governor there to give the report. And the Governor has to be there in order to act the ears and eyes of the Union.

The appointment is made by the President, yes. It can be asked; "Why should not the Governor be elected?" The Governor could be elected if the sole function of the Governor was to be just to

be the constitutional head of the executive. But his role is a dual role. He is not merely a constitutional head of the executive of the State. He is the symbol of the Union in the State. He is the eyes and ears of the Union within the State.

So far as his constitutional position qua the State executive is concerned, yes, his position in no manner is different from that of the President of India. The Supreme Court in the Shamsher Singh case has said that the position of Governor in this respect, as that of the President, also, is just like that of English monarch. I just quote two lines from the Shamsher Singh case. It

Ivor Jennings has acknowledged President in the Union or the Governor, or Rajpramukh in a State, is essentially the constitutional monarch. The machinery of Government is essentially British, and the whole college-constitutional institutions has apparently been incorporated conventions."

The Supreme Court has quoted Jennings with approval;

"Yes, if the Governor flouts the aid and advice of the State executive, he will be signing his own death warrant"

Jennings has quoted the historic Memorandum in which the powers of the English monarch were spelt out, that so far as the English monarch is concerned, and that is the position of the Governor and the State executive, as also of the President, the English Monarch has no individual judgement. He is bound by the aid and advice of his Council of Ministers. He cannot say, "I shall not abide by the aid and advice of my Council of Ministers because I believe this advice is unconstitutional." I would cite that portion. * This was the memorandum which was produced by Lord Escher when King George V was disputing or raising the dispute over the Home Rule Bill which the Government had brought forth. '

says:

"if the sovereign believes advice to him to be wrong, he may refuse to take it, and if his Minister yields the sovereign is justified. If the Minister persists, feeling that he has behind him a majority of the people's representatives, the constitutional sovereign must give way. It is precisely at this point that the dual personality of the monarch becomes clear. it says:

With due regard to the security of the throne, the sovereign cannot retain the final right of private judgement. "Here, the king has no prerogative.

"What then is the king to do if he asked by his Minister to violate the Constitution?"

That is the position. If the Governor interferes with the advice given by the Council of Ministers saying that you are asking me to protect the Constitution, what, is the Constitutional position, "the answer that the Sovereign cannot act unconstitutionally, so long as he acts on the advice of a Minister supported by a majority in the House of Commons, Ministerial responsibility is the safeguard of the monarchy Without it the Throne could not stand for long amidst the gusts of political conflicts and storms of political passion. " What, however, is the king to do if he is asked to support his Minister in putting a

strain upon the Constitution, which, in his view, is improper and dangerous to the welfare of the State? In the last resort, the King has no option. If the Constitutional doctrine of Ministerial responsibility meant anything at all, the King v. have to sign his own death warrant, if it was presented to him for signature by a Minister commanding a majority in Parliament, If there is any tampering with this fundamental principle, the end of monarchy is it. And after reproducing this memorandum, Jennings, who - has been quoted with approval by the Supreme Court of India, says:

'Lord Escher rightly based his memorandum on the principle that if the King exercised his own judgment, the throne could not stand for long. "

With these words, I support this Bill.

THE DEPUTY CHAIRMAN; Now, the meeting for lunch, will meet again at 2. 30 p. m. •

The House then adjourned for lunch at thirty-two minutes past one of the clock. Meeting resumed after lunch at one of the

The Vice-Chairman (SHRI H in the Chair).

श्री जगदम्बी प्रसाद यादव : माननीय उपसभाध्यक्ष जी, श्री भाटिया जी ने आज के राजनैतिक माहौल को देखते हुए राज्यपालों की शक्ति लेकर राष्ट्रपति के अधिकारों पर रोक लगाने के कई मसूचे यहाँ पर प्रदर्शित किये। उन्होंने राज्यपालों के अधिकार की बात को लेकर राष्ट्रपति के अधिकारों का ज्यादा बर्णन किया। उनको बात को लेकर ही अपनी बात आरम्भ करना चाहता हूँ। मैं यह कहना चाहता हूँ कि राष्ट्रपति को गलत कदम पर इम्पीच किया जा सकता है। लेकिन राज्यपाल के लिए इस प्रकार के इम्पीचमेंट की कोई व्यवस्था नहीं की गई है। इतना ही नहीं, राज्यपाल न तो संसद के प्रति जिम्मेदार हैं और न ही विधान

[श्री जगदम्बी प्रसाद यादव]

मंडल के प्रति जिम्मेवार हैं। अभी तो ऐसा लगता है कि राज्यपाल सचमुच में राष्ट्रपति से भी अधिक सर्वशक्तिमान और अधिक अधिकारों वाला है। मुझे स्मरण है, जिस समय संविधान का प्राकृतिक बनाव था उस समय राज्यपाल के लिए इसी प्रकार के प्रावधान की व्यवस्था की जा रही थी, लेकिन डॉ॰ अम्बेदेकर जी ने कहा कि इसको यहाँ से हटा देते हैं, किन्तु इसके लिए एक इन्स्ट्रुमेंट बनाया जाएगा। लेकिन वह इन्स्ट्रुमेंट बनाया नहीं जा सका। इसका परिणाम यह हुआ कि राज्यपाल धीरे-धीरे निरंकुश होता गया। मैं इस बात को यहाँ पर इसलिए उठाना चाहता हूँ कि जब हिन्दुस्तान आजाद हुआ तो उस समय कलकत्ता में श्री चक्रवर्ती राजगोपालाचारी राज्यपाल थे और लखनऊ में श्रीमती सरोजिनी नायडू राज्यपाल थीं। ऐसे प्रभावपूर्ण सुन्दर व्यक्तित्व और उच्च चरित्र वाले व्यक्ति राज्यपाल बने जिन्होंने राज्यपाल की गरिमा को बढ़ाया और स्वविवेक से काम लिया। वे स्वतंत्र विचार वाले लोग थे और किसी के हाथ को कठपुतली नहीं बने। इसलिये इस पद को गरिमा मिली। लेकिन 1967 में जब पन्द्रह राज्यों में चुनाव हुए तो अनेक राज्यों में गैर-कांग्रेसी सरकारें बन गई, संयुक्त विधायक दल के नेतृत्व में बन गई और तब से राज्यपाल की महिमा घटने लगी और घटते घटते राज्यपाल की महिमा इतनी गिर गई कि गत कांग्रेस शताब्दी समारोह में आठ राज्यपाल उस समारोह में सम्मिलित हुए। कम से कम अभी तक यह परम्परा रही थी कि जब कोई व्यक्ति राज्यपाल बन जाता है तो वह किसी पार्टी का सदस्य नहीं रहता। लेकिन इस गरिमा को, चरित्र के इस आवरण को भी उन्होंने कायम नहीं रखा और उस शताब्दी समारोह में चार गैर-कांग्रेसी सरकार के राज्यपाल थे। श्रीमान, इसलिए एक सवाल उठता है कि स्वविवेक से उनको काम करने का अधिकार अनुच्छेद 163 में दिया गया है और यह इतनी दूर सीमा तक दिया गया है कि वह वहाँ की सरकार को समाप्त कर सकता है। इसलिये यह प्रश्न बड़ा गंभीर

हो गया है। मैं एक बात स्मरण कराना चाहता हूँ कि राज्य और सरकार में फर्क है, राज्य और मंत्रिमंडल में भी फर्क है, राज्य और सत्तारूढ़ दल में फर्क है। राज्य कभी नष्ट नहीं होता और ये तीनों नष्ट हो सकते हैं। राज्य अतन्वरी रहता है, चलता रहता है। इसलिए राज्यपाल जो इसका प्रतिनिधि है उसको पार्टी पाल नहीं होना चाहिए, सरकार पाल नहीं होना चाहिए और न प्रधानमंत्री पाल होना चाहिए। इसलिए हमारे सभी माननीय सदस्य हालांकि यह विधेयक राज्यपालों के वेतन वृद्धि के संबंध में है लेकिन वे राज्यपाल के अधिकार के बारे में भी विचार करना चाहते हैं। उनको चिंतन करना पड़ रहा है और वे समझते हैं कि कहीं न कहीं इसमें विचार करने की आवश्यकता है। कौन नहीं जानता है कि सिक्किम के राज्यपाल तलियार खां, आंध्र के राज्यपाल रामलाल, जम्मू और काश्मीर के राज्यपाल ने बहुमत वाले दल को बिन, कारण बताये राज से हटा दिया। अब सवाल यह है कि सत्तारूढ़ दल के सदस्य जितने भी जोर से पार्लियामेंट में कहें, यहाँ बात को देखा ले लेकिन वे जन-मानस की आवाज को कैसे देवा सकते हैं। जब जन-मानस उद्वेलित होता है तो उसको दबाना आसान नहीं है। सचमुच, राज्यपाल की स्थिति क्या है। उपसभाध्यक्ष जी हमारे प्रधानमंत्री जी, कम्प्यूटर एज, इक्कीसवीं सदी में जाना चाहते हैं। लेकिन जो 21सवीं सदी के साथ चिंतन आयेगा वह सप्तरंगी चिंतन आयेगा, एक रंगी चिंतन नहीं आ सकता है। तो यहाँ पर आकर जो केन्द्र और राज्यों को जोड़ने वाला तत्व है, जो सीमेंट का काम करता है, वह बड़े महत्व का पार्ट अदा करने वाला होता है और अगर वह ऐसा महत्वपूर्ण पार्ट अदा करने वाला होगा तो उसके चरित्र पर, उसके प्रभाव पर उसके कृतत्व पर लोग विचार करेंगे ही। इसलिये जब राज्यपाल के पद की संवैधानिक बात होती है तो एक बात में कटने के लिये लाचार होता हूँ कि इस पद का मूल्यांकन होना चाहिए, इस पद की समीक्षा होनी चाहिए ताकि आने वाले समय में हम उनका ठीक से, उचित प्रकार से उपयोग कर सकें। सीधा मैं कह दूँ राज्यपाल पद की कोई प्रतिष्ठा नहीं, कोई उपयोगिता नहीं। लेकिन सीधे कहने

में काम चलता नहीं है। लेकिन जब आप इम्पीचमेंट की बात करते हैं तो प्रेसीडेंट का इम्पीचमेंट हो सकता है लेकिन राज्यपाल का नहीं होता है। प्रेसीडेंट जब उत्तरदायी हो सकता है तो राज्यपाल क्यों उत्तरदायी नहीं हो सकता? अगर वह उत्तरदायी नहीं है तो इस पद को रखने की आवश्यकता क्यों है? मैं इस बात को फिर से दोहराना चाहता हूँ कि राज्यपाल की नियुक्ति के वक्त मैं, मैं राज्यपाल पर नहीं, भारत में जो सरकार बनने वाली है, जो सत्ता दल बनने वाला है राज्यपाल की महत्ता को, गरिमा को और गौरव को राज्यपाल स्वयं नष्ट नहीं करते। मुझे याद है नेहरूजी के जमाने में एक राज्यपाल ने 95 से 85 बना दिया। नेहरू जी ने उसका विरोध किया। क्योंकि वह लोकतन्त्र के विचारकों, रचना करने वालों में थे, मूलतः को हमेशा विरुद्ध करते थे। लेकिन आज वह स्थिति नहीं है। राज्यपाल आज सत्ता के हाथों में टूल बन गया है, एक एजेंट बन गया है। आज अगर किसी चीज का विरोध है तो राज्यपाल के व्यक्तित्व का, वह टूल न बन जाए, वह स्वविवेक, स्वचरित को न छोड़ दे। राज्यपाल अगर राज पत्र ही खाली होता तो मैं राज्यपाल की बात करता लेकिन राज्यपाल जब कहीं बन कर जाता है तो उस प्रदेश का कुलपति भी हो जाता है और कुलपति होने से वह कम महत्त्व के पद का संचालन नहीं करता है। मैं अगर बिहार के कुलपति की बात लूँ तो वहाँ अगर कोई कुलपति दिखाई देता है तो वह संसद या विधायक कांग्रेस का ही दिखायी देता है और कोई नहीं दिखायी देता है। मेरे घर के बगल में भी कोई कालेज हो तो कांग्रेस का अगर कोई वर का भी होगा तो उसका नामांकन हो जाएगा लेकिन अगर घर में भी कोई कालेज चलता हो तो विरोधी दल का नहीं होगा। तो कुलपति होने के कारण उनकी एक जिम्मेदारी आज यह भी है कि वह यह भी देखे कि उस प्रदेश की शिक्षा पद्धति कैसी हो। मैं तो समझता हूँ कि कुलपति ही नहीं बल्कि वह प्रदेश के विकास में भी अगर गति दे सके तो बहुत अच्छी बात होगी। मैंने वाइलड में देखा है। वाइलड में प्रजातान्त्रिक सरकार है लेकिन एक राजा भी है। राजा ने अपना काम चुन लिया है और वह है विकास का काम। राजा दिनरात अन्वयत

विकास का काम करता रहता है। उस राजा की महत्ता भी है, पूजे भी जाते हैं और पावर से उसका कोई कनफ्लिक्ट भी नहीं होता है। अगर सत्ता में रहने वाले को सिर्फ उसी का ही काम करना हो तो राज्यपाल को जो आज हम सदन में कहते हैं कल हर प्लेटफार्म पर सब जगह कहा जाएगा। इसलिए मैं सत्ताधारी दल से विशेष निवेदन करके कहना चाहूंगा कि वे इस पर विचार करें और उसको टूल के रूप में न बनाएं। इसके साथ ही साथ आज राज्यपाल की योग्यता का भी हिसाब श्रापको करना होगा। सिर्फ एजुकेशनल क्वालीफिकेशन ही नहीं बल्कि सोशल भी, चारित्रिक भी और साथ साथ अपने ऊपर भी श्रापको धैर्य रखना होगा कि आप इस इंस्टीट्यूशन का दुरुपयोग न करें, आप इसका बदनाम न करें। राज्यपाल को बदनाम करने की बात चली है लेकिन मैं समझता हूँ कि राज्यपाल से अधिक जो सत्ता में है उन्होंने दुरुपयोग कर के इस इंस्टीट्यूशन को खराब किया है। इसलिए इस स्थिति को सुधारने के लिए सत्ता में रहने वाले लोग को ही अपने ऊपर अंकुश लगाना होगा। जब सत्ताधारी दल अपने ऊपर अंकुश लग एगा तो राज्यपाल की महत्ता बढ़ सकती है। मैं मंत्री जी के सामने यही प्रश्न रख कर कहना चाहूंगा कि सत्ता अपना आचरण, किस प्रकार व्यवहार करना चाहती है, उनका नॉन्-इन्ट्रेशन करने के वक्त, चुनने के वक्त पर प्रदर्शित करें। सदन भाटिया जी ने अपनी बात कहते समय यू एस ए० के संविधान को उठाया। यू० एस० ए० में भी डेमोक्रेसी है और यहाँ पर वाटरगेट कांड में प्रेजीडेंट सीधे चला गया उसकी अपनी पार्टी का जज होते हुए भी जाने उसको समर्थन नहीं दिया। यहाँ तो समर्थन देने के लिए सब राइट लेफ्ट पार्टी के लोग तैयार हैं लेकिन मैं यह कहना चाहता हूँ कि आप अपनी स्थिति स्पष्ट करें तभी राज्यपाल पद का गौरव गरिमा बढ़ सकती है। जब तक आप अपनी स्थिति साफ नहीं करते हैं तब तक आप इस पद की प्रतिष्ठा को नहीं लौटा सकते हैं।

श्री राम अरविश सिंह (बिहार) :
उपसभाध्यक्ष महोदय, राज्यपाल श्रम संसेज

[श्री राम अवधेश सिंह]

संशोधन विधेयक के माध्यम से इस सदन को राज्यपाल नामक इंस्टीट्यूशन की उपयोगिता और उसके व्यवहार के सम्बन्ध में बहस करने का मौका मिला है। आम तौर से राज्यपाल के सम्बन्ध में सदन में चर्चा नहीं होती है लेकिन उनके वेतन बढ़ाने और अन्य सुविधाओं के सम्बन्ध में जो संशोधन बिल आया है उसके माध्यम से यह मौका मिला है। महोदया, ऐसा लगता है कि राज्यपाल के पद की जो सृष्टि की गयी थी, जिन उद्देश्यों की पूर्ति के लिए, उन उद्देश्यों की पूर्ति नहीं हो रही है बल्कि दिल्ली में जिस पार्टी की हुकूमत होती है उसके पोलिटिकल एजेंट के रूप में राज्यपाल काम करता है। इसकी व्यवस्था की जानी चाहिए, संविधान में संशोधन करने की अगर जरूरत हो तो की जानी चाहिए। राज्यपाल के पद का जो दुरुपयोग हुकूमत करने वाली पार्टी करती है उसका अंजाम ऐसे राज्यों के लिए जहाँ गैर कांग्रेसी हुकूमत या दिल्ली के इतर की हुकूमत होती है उल्टा ही होता है। महोदया, कई ठोस उदाहरण हैं जबकि राज्यपाल के पद का दिल्ली की हुकूमत ने खूबमखूब दुरुपयोग किया था। मुझे याद है कि 1971-72 में बंगलादेश की विजय के बाद जब दिल्ली की हुकूमत का मन ऊंचा हो गया उनका मन जब गरमा गया तो एकाएक कांग्रेस पार्टी के सेंट्रल पार्लियामेंटरी बोर्ड ने फैसला किया कि कई राज्यों की विधान सभाओं को भंग करके चुनाव कराये जायें। संविधान में धारा 356 के तहत व्यवस्था है कि जब कांस्टीट्यूशनल मशीनरी काम नहीं करती हो या इंटरनल बायोलेंस हो या और कोई ऐसी स्थिति पैदा हो जाये कि विधान सभाओं को भंग करने की जरूरत हो गयी हो तो राज्यपाल की रिपोर्ट के अंदर सदन भंग की जायेगी। 1971 में 18 दिसम्बर को ही सीज फायर हुआ और बंगलादेश में भारतीय सेनाएं जीत गयीं तो उस जीत का लाभ उठाने के लिए 20 दिसम्बर 1971 को ही कांग्रेस पार्टी के सेंट्रल पार्लियामेंटरी बोर्ड ने फैसला किया कि कई राज्यों में चुनाव कराये जायें। गवर्नर ने रिपोर्ट नहीं दी कि इन राज्यों में ब्रेक डाउन है कांस्टीट्यूशनल मशीनरी का बल्कि कांग्रेस पार्टी का सेंट्रल पार्लियामेंटरी बोर्ड फैसला

करता है और उन फैसलों को अंजाम दिलाया गया गवर्नर्स के माध्यम से। मुझे बिहार का याद है, वहाँ की सरकार पूरी हुकूमत में थी ठीक ढंग से काम कर रही थी वहाँ आन्दोलन नहीं था, प्रदर्शन नहीं हो रहा था लेकिन बंगलादेश की विजय का पोलिटिकल लाभ लेने के लिए गवर्नर का इस्तेमाल किया गया और संविधान की धारा 174 (2) (बी) के तहत हाउस को डिस्साल्व करा दिया गया जबकि 174 (2) (बी) में

श्री जगेंश देसाई (महाराष्ट्र) : सन् 1977 में क्या किया था ?

श्री राम अवधेश सिंह : उस समय तो आपका पूरा सफाया हो गया था। जनता का पूरा तो कंफ़ीडेंस हो गया था कांग्रेस पार्टी में। आप ऐसी बात करते हो, दोनों में मिलान कर रहे हो। हमारी हुकूमत हारी नहीं थी और 1977 में तो पूरी आपकी गवर्नमेंट का सफाया हो गया था कन्या कुमारी से लेकर काश्मीर तक और पंजाब से लेकर बंगाल तक। उसमें पीपुल का कंफ़ीडेंस आप पर से लूज हो गया था।

मैं कह रहा हूँ महोदय कि सेंट्रल पार्लियामेंटरी बोर्ड ने फैसला किया और उसे अंजाम दिया गया संविधान की धारा 174(2) (बी) के तहत। इस धारा का इस्तेमाल तब होता है जबकि नार्मल ढंग से किसी विधान सभा को अपनी कालावधि पूरी करने पर इलेक्शन को फ़ैसिलीटेट करने के लिए विधान सभा का डिस्साल्यूशन किया जाये। बिहार के गवर्नर ने 30 दिसम्बर 1971 को धारा 174(2) (बी) के अन्दर हाउस को डिस्साल्व कर दिया। जो घोर अन्कॉन्स्टीट्यूशनल था और पोलिटिकल एजेंट के रूप में काम किया। मैंने सुप्रीम कोर्ट में रिट किया था कि इस धारा के तहत हाउस को बीच में डिजाल्व करने का कोई अधिकार नहीं है। फिर एक डिजाल्यूशन के बाद एक मुर्गी कतल कर दी गई, फिर धारा 356 के अन्दर आठ दिन के बाद प्रेजिडेंट ने बिहार की असेम्बली को डिजाल्व किया।

तो मैं यह कहना चाहता हूँ कि यह जो गवर्नर का पद है, इसका दुरुपयोग इस ढंग से

किया जाता है। तो, महोदय, मैं यह कहना चाहता हूँ कि जो हमारे कई मित्रों ने कांग्रेस पार्टी की ओर से कहा कि फेडरल स्ट्रक्चर को कायम रखने के लिए गवर्नर का पद जरूरी है, मैं कहता हूँ कि यह बिल्कुल उलटा है क्योंकि यह फेडरल फार्म का नहीं है, यह तो यूनिटरी फार्म का है। यूनिटरी फार्म का यह तरीका हो सकता है कि केन्द्रीय सरकार का नियुक्त किया हुआ कोई आदमी हो। फेडरल फार्म एक जगह है, जो यू० ए० ए० में है, वहाँ का गवर्नर चुना जाता है न कि नामिनेटेड होता है या इम्पॉजिट होता है। कहीं भी फेडरल फार्म में इम्पॉजिट एजेंसी नहीं होती है, फेडरल स्ट्रक्चर को कायम रखने के लिए जहाँ भी फेडरल फार्म है, वहाँ इलेक्टेड इन्स्टीट्यूशन होती है न कि नामिनेटेड या इम्पॉजिट होती है।

इसलिए भारत के संविधान में जो गवर्नर का पद है, यह वांछित है, बेमतलब है और यहाँ आसू बहाये जा रहे हैं कि गवर्नर के वेतन को साढ़े पाँच हजार से ग्यारह हजार कर दिया जाए। साढ़े पाँच हजार से ग्यारह हजार करने के पीछे तर्क यह दिया जाता है कि पैसे कम हैं, महीना कम है। ठीक है, आप बड़ा देंगे, उनकी सारी सुविधायें तो बढ़ गई हैं, लेकिन कभी लैंडलैंस लेबरर के बारे में भी आपने सोचा है, मजदूरों के बारे में सोचा है ?

इस्पात और खान मंत्रालय के खान विभाग में राज्य मंत्री (श्रीमती रामबुलारी सिंह) : जरूर सोचा है।

श्री राम अवध श सिंह : मिनिमम वेजेज एक्ट जो आपने इस सदन के जरिए पास किया है और सरकार ने जो कहा है कि 15 रु० 80 पैसे प्रतिदिन देंगे, उसके बारे में आपने कभी सोचा है ?

महोदय, मैं बताना चाहता हूँ कि सारे देश में गवर्नर में जो सबसे छोटा यूनिट होता है पश्चात्त का, वह है चौकीदार और चौकीदारों का वेतन। अब भी किसी सूबे में दस रुपये, किसी में पंद्रह और किसी में पच्चीस रुपये हैं। मैंने अपने राज्य में लड़ करके इसे 200 रुपये करवाया है। तीन-चार बार लड़ने-गड़ने मैंने इनका वेतन 200 रु० करवाया है। जो प्रशासन

की सबसे निचली कड़ी है, क्योंकि यह लोग ज्यादा हरिजन होते हैं, पादिवासी होते हैं पिछड़ी जमात के होते हैं इसलिए उनके बारे में कोई सोचता नहीं है। चौकीदारों का वेतन इन महंगाई के जमाने में भी 15 रु०, बीस रुपये और कहीं 50 रु० पड़ता है। शर्म नहीं आती है ? गवर्नर का वेतन तो आप कहते हैं कि दुगुना बढ़ा दो और चौकीदारों के बारे में क्या सोचा, दफ्तारों के बारे में क्या सोचा जो सरकार को इकट्ठा हो बुनियादी नींव है, जो गांधी-गांधी से इनफ्लेशन क्रिमिनलज के बारे में तमाम सूचाएं इक्की करके धान को देते हैं या ऊपर जिले को देता है, जिन प्रांत को देता है और प्रांत सरकार से—इन्हीं चौकीदारों के ऊपर आगे सारे मशीनरी गांव-गांव में बढ़ी है। उनके बारे में कोई सोचता ही नहीं, कोई बहस ही नहीं होती है।

मैं आपके माध्यम से मानता हूँ मंत्री जी का ध्यान खींचना चाहता हूँ कि क्या सरकार देश के चौकीदारों, दफ्तारों के बारे में जो प्रायः तो हर हरिजन हैं, पिछड़ी जमात के लोग हैं, अदिवासी लोग हैं, उनके बारे में कभी सोचेंगे ? क्या इन मुग में उठाया जा, पंद्रह, बीस पचास रुपये महीना देना उचित है ? (समय की घंटी)

तो मैं चाहता हूँ कि किसी भी तरह से मिनिमम वेजेज ही कम से कम, महोदय मैं आपके माध्यम से सरकार को कहना चाहता हूँ कि उनके देश के चौकीदारों को कम से कम मिनिमम वेजेज 15 रु० 80 पैसे प्रोदाने से निवृत्त का कष्ट करें। आप अगले एक से कुछ एड कर देंगे तो राज्य सरकारों को कहिए क्योंकि मुसीबत होठे ने 1983 में यह फैसला किया है, तो तो फाँले हैं तो मिनिमम वेजेज से इनके दूरी देना वाण्डेड लेबर है। तो यह चार लाख चौकीदार वाण्डेड लेबर की जिन्दगी व्यतीत कर रहे हैं। उन वेतन के हिसाब से बलिहारा है। जब कि इस धरती का ईसान चांद की

[श्री राम अश्वेश सिंह]

धरती को रौंद कर आ गया है, इस युग में भी उसकी दशा के बारे में आपको आश्चर्य होगा कि अगर वह चौकीदार घाने में जाकर सलाम भी करता है कि सलाम हजूर; तो एक ही रांस में दरोगा उसे जितनी मालियां दे सकता है दे देता है और सलामी से इंकार करता है।

इसलिए मैं माननीय गृह मंत्री जी का कहना चाहता हूँ कि आपके माध्यम से कि इस विषय पर वह जरा ध्यान दें और इसके बारे में एक रिपोर्ट मांगें कि सारे देश में चौकीदारों की क्या हालत है? राज्यपाल के बारे में तो सोचिए ही और आप सोचेंगे भी क्योंकि आपका वर्ग चरित्र ही ऐसा है। आप राज्यपाल के वेतन के बारे में सोचेंगे, आप संसद सदस्यों के वेतन के बारे में सोचेंगे क्योंकि यह आपका वर्ग चरित्र है, आप अफसरों के बारे में सोचेंगे, आप जजों के बारे में सोचेंगे क्योंकि आपका यह क्लास करैक्टर है। यह आप सोचेंगे, आप सोचने के लिए मजबूर हैं, लेकिन साथ ही साथ जो सबसे निचली इकाई हैं, जो चौकीदार हैं जरा उनके बारे में भी सोचिए।

इस तरह मैं इस बिल का विरोध कर रहा हूँ कि अभी इसकी कोई जरूरत नहीं है। इसके साथ ही मैं अपनी बात समाप्त करता हूँ। जय हिन्द।

SHRI DHARAM CHANDER PRA-tnru and Kashmir): Mr. Vice-i man, Sir. I rise to express my views on the Bill which is before the House.

Sir. the Governor's role is very import in the States. As is the role of the Pre-it in the Centre, so is the Governor's role in the State. He is a link between . the Centre and the State. He is the sole representative of the Centre in the State. "Whenever there are complaints from the le, from the opposition parties or from the individuals, they approach the Governor-to convey their views or comp or grievances to the Centre. At that time, the Governor fulfils his obligations. The

rnor's sphere of activity is very wide. He has to inaugurate functions and pre side over the conventions and conferences, not political but cultural literary and social. Being the Head of the State, | ple approach him. Why? Because a man of wisdom and ability. I cannot the example of other So, far my State of Jammu and Kashmir

Centre has sent very able Governors. I recall the name of Mr. L. K. Jha, who remained there for 5 or 6 years as Governor. He is a person of international repute. When his tenure office was to terminate. Sheikh Abdullah

Minister of the State, wrote to the Centre to extend his tenure and it done. Not only the Governor but their have done commendable job in my . State. (Interruptions!). Mrs. L. K Jha commendable work for the backward . upliftment of women and develop-lildren. She earned a name there. Even the wife of the present Governor Mrs. Uma Jagmofaan is the Chair-of the Social Welfare Board. She is doing very line job so far as upliftment of children, women and backward classes ,: If the Governors' attow-enhanced, the Governors will not allowances in their pockets. They Only a few days back.. there was the Centenalry of Maithili Sural Gupta. One Sahitya Mandal there wanted to celebrate it. But they were penniless. They approached the Governor. And the Governor gave them adequate funds. Simi-this Governors office is very im-portant. It should not be abolished: it should be retained. (Interruptions) The position is very different in my State unlike other States. So, I suggest that the Governor's office should not be abolished. It should be retained. And allowances should be given to the Governor because he has to move in a wider sphere, and for that the Governor needs the emoluments also

Thank you, Sir,

श्री सत्य प्रकाश मालवीय (उत्तर प्रदेश) : माननीय उपसभाध्यक्ष जी, राज्यपाल (उपलब्धियां, भत्ते और विशेषाधिकार) संशोधन विधेयक, 1987 के माध्यम से राज्यपाल के पद पर और किस

प्रकार से राज्यपाल के पद का दुरुपयोग किया है केन्द्र सरकार की ओर से, हम लोगों को विचार करने का अवसर मिल रहा है। मान्यवर, जब संविधान सभा संविधान पर विचार कर रही थी तो उस समय इस बात पर भी चर्चा हुई कि राज्यपाल केन्द्र द्वारा नियुक्त व्यक्ति होगा या निर्वाचित व्यक्ति होगा। लेकिन बहुत के बाद विचार-विनियम के बाद यह फैसला हुआ कि चूंकि प्रदेश के मुख्यमंत्री निर्वाचित होते हैं, इसलिए राज्यपाल को केन्द्र द्वारा ही नियुक्त किया जाएगा, लेकिन वास्तविक रूप में राज्यपाल प्रधान मंत्री द्वारा नियुक्त होता है और पिछले वर्षों में जो राज्यपाल के पदों को, जिस प्रकार से केन्द्र ने राज्यपालों से अपने स्वार्थ, राजनीतिक उद्देश्यों की पूर्ति के लिये उपयोग किया है, इसमें मान्यवर, राज्यपाल के पद की गरिमा गिरी है। राज्यपाल का पद एक बहुत प्रतिष्ठित पद होता था, लेकिन जब सारे देश में इस बात की चर्चा चली है कि राज्यपाल का पद रखा जाय या न रखा जाय और अगर रखा जाय तो उसमें किस प्रकार के व्यक्तियों को नियुक्त किया जाय। जो सरकारी कामकाज नियुक्त किया गया है केन्द्र और राज्यों के संबंधों के मिलमिले में, उसमें भी जो प्रभावशाली जारी हुई है, उसमें यह विषय विचारणीय है।

मान्यवर, कुछ उदाहरण की ओर भी आपका ध्यान आकर्षित करना चाहता हूँ कि किस प्रकार से राज्यपाल के पद का दुरुपयोग केन्द्र में जो लोग सत्ता में थे उन्होंने किया। सन् 1965 में मान्यवर, केरल विधान-सभा के चुनाव हुए, वहाँ पर उस समय केरल विधान सभा की सदस्य संख्या 133 थी, सी० पी० एम० के 40 सदस्य वहाँ पर चुन कर आए, 7 मार्च, 1965 को सी० पी० एम० के तात्कालिक नेता इ० एम० एम० नम्बदरीपाद ने 23 और व्यक्तियों के समर्थन के तान राज्यपाल को दिये, लेकिन उनको सरकार बनाने के लिए नहीं बुलाया था और लाखों रुपया खर्च करके केरल विधान सभा का चुनाव हुआ था, अलग-

अलग उम्मीदवारों ने भी चुनाव में पैसा खर्च किया था, लेकिन बिना सरकार बनाए वहाँ पर विधान सभा को भंग कर दिया गया और जो एक बहुमत का नेता था, जिसने अपना दावा भी वहाँ पर उपस्थित किया, लेकिन उसको अपना बहुमत सिद्ध करने का मौका नहीं दिया गया। मान्यवर, जब यह संविधान बन रहा था, उस समय किसी ने भी यह नहीं सोचा था कि बहुमत या अल्पमत का फैसला राजमवन में होगा, विधान सभाओं में नहीं होगा।

ठीक इसी प्रकार मान्यवर, एक उदाहरण राजस्थान का है, 4 मार्च, 1967 को राजस्थान के राज्यपाल ने वहाँ के जो कांग्रेस पार्टी के नेता थे, उनको सरकार बनाने का निमंत्रण दिया। उस समय राजस्थान विधान सभा में सदस्यों की संख्या 183 थी, उनके 88 सदस्य आए थे चुनकर, लेकिन जो कांग्रेस पार्टी के लीडर थे मोहन लाल सुखाड़िया उन्होंने सरकार बनाने से इन्कार कर दिया और राज्यपाल से कह दिया कि मैं इस स्थिति में नहीं हूँ कि सरकार बना सकूँ। 12 मार्च को कांग्रेस के नेता ने सरकार बनाने से इन्कार किया तो विपक्ष को मौका नहीं दिया गया। 14 मार्च को मान्यवर वहाँ की विधान सभा बुलाई गयी थी, लेकिन उसके पहले ही विधान सभा को 13 मार्च को निर्वाचित कर दिया गया और राष्ट्रपति शासन लागू कर दिया गया और इस प्रकार से मान्यवर कांग्रेस पार्टी के अल्पमत को बहुमत में बदलकर दो माह बाद 28 अप्रैल, 1967 को कांग्रेस पार्टी के मुख्यमंत्री को शपथ दिलाई गई।

इसी तरीके से मान्यवर, हाल का उदाहरण है 1982 का हरियाणा का, मान्यवर, हरियाणा में जब चुनाव हुए तो 90 वहाँ विधान सभा के सदस्य थे। उनमें से 36 चुनकर कांग्रेस पार्टी से आए, 31 लोकदल के, 6 भारतीय जनता पार्टी के, 3 कांग्रेस जे, 1 जनता पार्टी और स्वतंत्र 12 आए। भारतीय जनता पार्टी, कांग्रेस जे, जनता तथा स्वतंत्र ने लोकदल के नेता का समर्थन किया। राज्यपाल जी० डी० तपासे ने 22 मई को कहा कि 24 मई को 10 बजे लोकदल के नेता

[श्री सत्य प्रकाश मालवीय]

देवीलालजी राजभवन में विधायकों के साथ आएँ और उनको प्रस्तुत करें। लेकिन ठीक दूसरे दिन 23 मई को कांग्रेस पार्टी के मुख्य मंत्री श्री भजन लाल को शपथ दिलाई गई और इस तरीके से संविधान की धाराओं का खुला उल्लंघन किया गया और खुला दुरुपयोग किया गया। हाल में 83 में जम्मू काश्मीर में जिस प्रकार से सरकार गिराई गई और 1984 में जिस तरीके से आंध्र प्रदेश की सरकार गिराई गई, वह उसका ताजा उदाहरण है।

श्रीमन, एक सैमिनार हुआ था 17 अगस्त 1983 को बंगलौर में। इसमें हेगड़े साहब जो कर्नाटक के मुख्य मंत्री थे उनको कहना पड़ा Even the Governor has become a glorified servant of the Union. और उस सैमिनार में जो प्रस्ताव पारित किया गया था वह मैं सदन के सामने रखना चाहता हूँ :

"An institution of crucial importance, on whose impartiality and integrity the autonomy of the States and the soundness of Union-State relations depend, is the Governor of the State'. It is unfortunate that on more than one occasion the Governor has by and large been made to function as an agent of the Union Government. This position is totally violative of the Constitution. "

"But on far too many occasions, the actual practice has been contrary to this Constitutional. position..."

which was described by Mr. Upendra while citing Raghukul Tilak's case in the Supreme Court judgment

... The Governors power to appoint the Chief Minister and dissolve the State Legislature has on several occasions been used to flout the expressed will of the people. It is, therefore, felt that the constitution should be amended to ensure the independence Of the office of the Governor. "

मान्यवर राज्यपाल के पद पर कैसे लोगों को नियुक्त किया गया यह सब जानते हैं। जो लोग चुनाव हार गए, ऐसे लोग जिनके खिलाफ सुप्रीम कोर्ट ने या हाई कोर्ट ने अपने फैसलों में स्ट्रिक्चर पास किए, जिनके खिलाफ टिप्पणी की, ऐसे लोग राज्यपाल बनाए गए। अभी भी हम देखते हैं कि जो चांस इलेक्शन कमिश्नर बनकर अपने कार्य भार से निवृत्त हो जाते हैं उनको भी राज्यपाल बनाया जाता है। इसलिए मैं इस सदन के माध्यम से निवेदन करना चाहता हूँ कि इस प्रकार के लोगों को राज्यपाल नहीं बनाया जाना चाहिए। किस प्रकार के लोग राज्यपाल बनाए जाएँ इसके संबंध में विचार विमर्श होना चाहिए और संविधान में संशोधन करना चाहिए।

श्रीमन, एक स्टडी टीम एडमिनिस्ट्रेटिव रिफॉर्म्स कमीशन की थी जिसके अध्यक्ष अटॉर्नी जनरल एम०सी० संगितल-वाडये। उन्होंने 1967 में जो रिपोर्ट दी है उसका भी मैं उद्धरण देना चाहता हूँ :

"There have been instances of persons appointed as Governors continuing their connection with active politics, and in some cases returning to active politics after ceasing to be Governors. We have no hesitation in recommending that there should be a firm convention that no person who is appointed Governor should take part in politics after his appointment as such. "

"The Study Team noted the qualities expected of a Governor and remarked that. Many of those who have filled posts of Governors during the last 16 years have fallen short of this standard. It is our considered view that the real reason for this state of affairs is not the paucity of suitable persons, but the lowly place given to the post of Governor in the minds of those responsible for making the appointments. "

"Circumstances devalued the post, and with that there was a logical fall in the standard of selection for Governors. The post came to be treated as a sine-

cure for mediocrities or as a consolation prize for what are sometimes referred to as 'burnt out' politicians. Most of the persons selectee were old men of the ruling party at the Centre..."

तो मैं निवेदन करना चाहता हूँ कि जो उद्घरण मैंने दिए हैं उनसे साफ हो गया है कि राज्यपाल के पद पर किस प्रकार के व्यक्तियों की नियुक्ति की जाए इसके संबंध में पुनर्विचार होना चाहिए। दूसरे वक्ता कभी यह भी सुझाव दिया गया है इंटर स्टेट रिलेशंस का स्टैंडो टॉम ने भी सुझाव दिए हैं कि जो राज्य के मुख्य मंत्रा हैं उनसे भी पूछा जाना चाहिए उन से भी सलाह ले जाना चाहिए कि किस प्रकार के व्यक्ति को उनके राज्य में राज्यपाल नियुक्त किया जाए इस सम्बन्ध में मेरा सुझाव यह है कि कम से कम तीन व्यक्तियों का एक पैनल होना चाहिए और जो नाम मुख्य मंत्रा भेजें उन में से एक व्यक्ति को राज्यपाल बनाया जाए।

अन्त में जिस बात को हमारे जगदम्बा प्रसाद यादव जी ने आपके समक्ष रखा कि हमारे संविधान के अनुच्छेद 61 में इस बात का प्रावधान है कि जो राष्ट्रपति हैं उनके ऊपर महाभियोग चल सकता है, उनका इम्पॉचमेंट हा सकता है।

"Procedure for impeachment of the President: When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament."

लेकिन मान्यवर इस प्रकार का प्रावधान राज्यपालों के लिए नहीं है जब कि जो उदाहरण मैंने प्रस्तुत किया है उससे स्पष्ट हो गया है कि राज्यपालों ने सर्वेधानिक धाराओं का दुरुपयोग किया। केन्द्र में जो सरकार थी, सत्ता में केन्द्र में जो सरकार थी उसके राज्यपाल के जरिये बहुमत सरकारों को अल्पमत सरकार में बदल कर काम नहीं करने दिया। इसलिए मेरा सुझाव है कि इस संविधान में राज्यपाल के इम्पॉचमेंट का प्रावधान होना चाहिए। इस तरह

का प्रावधान किया जाना चाहिए कि राज्यपालों के ऊपर महाभियोग चलाया जा सके। इन विचारों को प्रस्तुत करते हुए मैं, जो विधेयक प्रस्तुत किया गया है, संशोधन विधेयक, उसका विरोध करता हूँ।

SHRI CHITTA BASU (West Bengal): Mr. Vice-Chairman, Sir., it has been argued that the office of the Governor under the present Constitution is exalted and dignified. So far as the existing provision of the Constitution is concerned, I am tempted to agree that the Constitution has given them—the office of the Governor—an exalted position. But my complaint is that many Governors—I do not say all Governors—have not always maintained the exalted position and the dignity of the office. If you go into the history of the last 37 years, it would be quite clear to you, Mr. Vice-Chairman, Sir, that article 356 has been invoked in more than 70 cases. During the last 37 years, more than 70 instances are there when article 356 was imposed for imposing President's Rule in the States. I am not going into the details of it. But in most of the cases, I am constrained to say that the Governor's post, the office of the Governor, has been utilised for dislodging the non-Congress I Governments in the States even though they enjoyed majority in the House.

SHRI SATYA PRAKASH MALAVIYA:
Even uncomfortable Congress Governments.

SHRI CHITTA BASU: Instances are with me. I shall not mention them. There have been instances when the office of the Governor was utilised to remove or to take certain action arising out of the internal squabbles in the ruling party, that is, the party at the Centre. When there were dissensions in the ruling party, the office of the Governor was utilised to sort them out and impose President's Rule. Therefore, it is clear that the exalted position which our Constitution provides for the office of the Governor has not been properly maintained, by many Governorg^

[Shri Chitta Basu]

The conception is also wrong. I do not always hold them responsible. The conception is, as has been mentioned by Mr. Bhatia, Governors are there to act and perform as an agent of the Centre. If you proceed from that conception that the Governors are the ears and eyes and an agent of the Centre, naturally, there is bound to be conflict between the elected Legislature and the Governor. Many instances are there, I do not like to mention them. Now, after 37 years of our experience in respect of working the Constitution of our country, time has come when we should review and in this particular case the office of the Governor. The review is necessary because of the two important political phenomena in our country. The one is, India's unity, integrity, democracy, secularism, whatever you may say, cannot be protected, preserved, strengthened and promoted unless the true spirit of federalism is given effect to. India should be a truly federal State. Then and then alone, unity of India can be preserved and strengthened. My first Point is, the concept of Governor as agent of the Centre, concept of the Governor as ears and eyes of the Centre, are contrary to the very basic spirit, basic principle of federalism. Therefore, it needs a fresh look.

Secondly, we cannot remain blind to the qualitative change in the Indian polity. There is a qualitative change in the Indian polity and that is that there cannot be one-party rule. Monopoly of a single party rule over the country is over. You cannot, dream of those days again. Kind of multi-party system, some kind of coalition polity is needed. Some parties opposed to the Centre have been elected to power. Combinations of parties have been successful in forming a Government in State legislatures. Therefore, the duties and functions of the Governor, when there was a monopoly by single party, are not relevant today in context of the changed Indian polity today. Indian polity today is for coalition it is leaning towards multi-party system. The days of mono-party polity are not there. There is the age of multi-party polity, and in the age of multi-party

polity the concept of Governor as eyes and ears or as agent of the Centre is incongruous or anarchical. Therefore, I feel that at this time the office of the Governor needs to be reviewed and its performance and functions are also to be revised.

In this connection, in connection with the review of the Governor's office, I would like to draw your attention to article 163 which states that the Governor to act on the aid and advice of the Council of Ministers. What happened recently in West Bengal? I do not want to mention the name of the Governor, he happens to be the hon. Member of this House. In West Bengal, the Governor not bound by the advice of the Council of Ministers in the matter of appointment of a Vice-Chancellor of the University. He said, he had the discretion. About Andhra, it has already been mentioned by my esteemed friend, Mr. Upen-dra.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB): Can we specifically the conduct of the Governor in this House?

SHRI SATYA PRAKASH MALAVI-

YA: He has not taken the name of anybody.

HRI CHITTA BASU: I have 'Andhra Pradesh' and Andhra Pradesh is much part of this country. " This Legislature also represents Andhra Pradesh. It is our right, as Members of the Council of States, to represent the State; from which we come. Therefore, the function of the Governor in a parti-

if it is against the principle of democracy, can naturally be brought in this House. This House is not going to that length because I want that I should not bring in any hot things. But the Governor's performance in Andhra Pradesh is not in conformity with the exalted office. He or she, in this case, she occupies the office. It is surprising that the Governors acted in certain States as the PCC(I) President. One Governor in West Bengal is on record to say, yes, he was there to see that the Congress Party is strengthened. In Andhra Pradesh also, the Gov-

r, I. think, acted as a parallel centre of politics. This has undermined the exalted office of the Governor. In Orissa, since my friend happens to represent that State, the Governor is reported to even intermingled with those who are dissidents. And the recent development in Punjab, leading to demand for the dismissal of the elected State Government which still enjoys majority in the House has its basis, according to me, excuse me, Sir, the active role played by the Governor then

[SHRI SATYA PRAKASH MALAVIYA; From West Bengal.

SHRI CHITTA BASU: He was the ex-Chief Minister of West Bengal. Therefore if the Governors are to be involved in politics and they are to subserve the interests of the ruling party at the centre....

THAKUR JAGATPAL SINGH (Madhya Pradesh): What about the Speaker? You have a party man in West Bengal.

SHRI SATYA PRAKASH MALAVIYA: Speaker can belong to a political party.

I CHITTA BASU: The exalted office of the Governor has been misused and abused. In the changed condition of Indian polity it is necessary to have a fresh look into the matter and I suggest that the relevant provisions of the Constitution should be changed so as to ensure that democracy is further strengthened and not hampered by the exercise of arbitrary power by the Governor*.

Lastly, Sir, the Constitution provides for discretionary powers of the State Governor whereas the President has got no discretionary power. That part should be done away with because no Governor has the Council of Ministers, no Gov-

ernment is above the elected legislature of a State; therefore the discretionary powers of the Governor should be done away with. Thank you.

SHRI CHINTAMANI PANIGRAHI; Mr. Vice-Chairman, Sir, I am extremely

participated in the discussion on this Bill for enhancing the emoluments of the Governors. I am grateful that Mr. Quasem, Shri Gurupadaswamy, from our side Shri Sukul and Shri Sahu, and Mr. John, Mr. Upendra, Mr. Bhardare, Mr. Madan Bhatia, Mr. Yadav, Mr. Ram Awadesh Singh, Mr. Prashant, Mr. Malaviya and lastly Mr. Chitta Basu have participated in this discussion. I am extremely happy and grateful that these hon. Members participated in this discussion.

My task is very easy in the sense that perhaps an advantage was taken to discuss the institution of Governors, but as you know, Sir, the ambit of the Bill is very limited. It is an innocuous Bill. As Mr. Sukul and Mr. Bhardare have pointed out it is a very simple and innocuous Bill and has a definite objective—to enhance the salary of the Governors. We had to regulate the emoluments, allowances and privileges of the Governor and an Act namely the Governors (Emoluments, Allowances and Privileges) Act, 1982, was enacted. This Act has now been brought into effect from April 1, 1986. While giving effect to it, section 3 of the said Act had prescribed that only Rs. 5,500 are payable as emoluments to a Governor. But we are just going to amend section 3 of this Act and are going to enhance the emoluments to Rs. 11,000 per month. In the meantime also enhanced the emoluments of the President from Rs. 10,000 to Rs. 12,000 per month, of the Chief Justice of the Supreme Court from Rs. 5,000 to Rs. 10,000 per month, of the Judges of the Supreme Court from Rs. 4,000 to Rs. 9,000 per month, of the Chief Justices of the High Courts from Rs. 4,000 to Rs. 9,000 per month and of the Judges of the High Courts also from Rs. 3,500 to Rs. 8,000 per month. Today we are proposing to raise the salary of the Governors from Rs. 5,500 to Rs. 11,000 per month. Therefore, Sir, this is a very limited objective of this Bill and I think, perhaps, there was no chance to discuss the institution of Governor because it is not allowed, perhaps. So, our honourable friends know it very well, but they

[Shri Chintamani Panigrahi]

cussed the very institution of Governor in this country.

Sir, the expenses that will be incurred by the enhancement of the Salary will be Rs. 11, 88, 000 per annum and they will be met from the charge on the Consolidated Funds of the respective States, as Mr. Upendra tried to point out.

Here, when things have been mentioned about the institution of Governor and all those things from our side Mr. Sukul, Mr. Bhandare, Mr. Bhatia and Mr. Sahu had also met some of the points raised by honourable Members from the other side. But I would just like to mention here that in the Preamble of the Constitution that the people of India have given unto themselves, it is written there:

"WE, THE PEOPLE OF INDIA, ' having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and politi-

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation. "

That is what we have given unto ourselves. I heard the speeches of our noble friends and I value the suggestions given by Mr. Gurupadaswamy and Mr. Upendra. They have given very valuable suggestions. Here I am reminded of the famous American, poet, Robert Frost—he is one of the immortal poets—who said, in one of his poems;

Two roads diverged in a wood, and I-I
took the one less travelled by, And

that has made 'all the difference.

Sir, there are systems of Governments in the world. There are systems which have accepted parliamentary democracy as a way of life and to establish an egalitarian society with socialist objectives. But there are systems which are accepted only with socialism as their objective, but not through parliamentary democracy. Therefore, Sir, we have decided this path; we have accepted parliamentary democracy and, at the same time, we, have accepted our objective as one to establish an egalitarian society having a socialist order of society. Therefore, this is a path which has not been travelled by many countries of the world. This is a completely less travelled path and, therefore, to pass through transitions, from one stage of society to another from a feudal state of society to an industrial society and then onwards to a society of socialist order, through a democratic process, is a very difficult process. And we should all be happy and grateful that through their own genius and wisdom, the people of India have passed through all these difficulties during the last thirty-eight years and are slowly emerging, by correcting whatever mistakes that are coming, and through their own experience they are emerging as a very successful nation to build up a socialist State through a parliamentary process of democracy. Therefore, Sir, about what our friends have suggested about the Governors, which Mr. Upendra pointed out and Mr. Gurupadasamy also pointed out, by and large, I must say that they are very great and illustrious, very eminent persons. Really we can worship them, so far as India is concerned. They are very great illustrious men and women who adorned these positions during the last 38 years. By and large, I must say, they have maintained the dignity of this high office which they have been assigned to hold under the Constitution. As some friends like Mr. Upendra, Mr. Chitta Basu and others pointed out, in the democratic process for the whole 38 years during which we have been travelling a path which is less travelled, there may be some aberrations here and there. But, Sir, the aberrations, we cannot take a general rule. Therefore, we cannot condemn this institution because

this is an institution which many eminent persons have held. If we remember them we are proud of them.

Sir, our tradition is a tradition which we have inherited from thousands of years of history. The tradition that we are holding today is that we are not very much parochial in our outlook or very sectarian in our approach. Whenever any sectarian approach comes to the forefront, immediately people also think about it. They do not recognise it. They feel that something has happened. Therefore, it is corrected. Therefore, we have a corrective method. Therefore, all the issues that have been discussed here regarding the institution of the Governor are there. Therefore, in all Our wisdom we have appointed the Sarkaria Commission. This is one of the... (Interruptions)

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Order, order.

SHRI CHINTAMANI PANIGRAHI; Therefore, we have set up the Sarkaria Commission. I hope almost all the State Governments have submitted their memorandums. Perhaps they have met the Sarkaria Commission. They have put forward their points of view. Some difficulties or lacunae are there. We have extended the Sarkaria Commission for another four months so that, if the necessity is felt, all these issues which have been referred to can be discussed. I hope, Sir, these can be very well discussed in the Sarkaria Commission, and all these points that our hon. friends have suggested, friends like Mr. Ram Awadesh Singh have suggested... (Interruptions)

He pointed out a very important problem. That is about the Village Chowki-dtrs, that their emoluments are very less. I have associated with one of the associations of Village Chowkidars, and I have also referred to the State Government and the Central Government to see if they can help and see that they get something bet-ter. (Interruptions)

What I am trying to point out is that the objective laid down by Pt. Nehru, Indira Gandhi and Prime Minister Rajiv Gandhi and we have accepted, is that we

shall look more and more towards the welfare of the down-trodden, those who are poor. Therefore, Sir, all the efforts are being directed to see that their lot and condition improves. What we are doing today for the enhancement of the salary of the Governors is something which is because we did it in other cases, in the case of other dignitaries. Therefore, this lacuna, we are trying to rectify. There is no bar to see that the lot of the poor, weaker sections gets attention. Therefore, Sir, what I submitted before the hon. Members that the Centre—I am dealing with the Centre-State relations... (Interruptions)

THE VICE-CHAIRMAN (SHRI H.

श्री राम अवधेश सिंह : मैं कॅटेगोरिकली मंत्री जो से चाहता हूँ... पहले जरा शांत हो जाइये, धोरज रखिए। गवर्नर और एम०सी० की तनख्वाह बढ़ा सकते हैं लेकिन जो चौकीदार गांव में रहते हैं जो 10 रुपये महीना पाते हैं... (व्यवधान)... आपको शर्म आना चाहिए (व्यवधान) हंसते हैं आप लोग।

HANUMANTHAPPA): Please sit down.

श्री राम अवधेश सिंह : ... चूंकि यह हरिजन हैं आदिवासियों हैं, इनके लिए कोई सोचता नहीं है। आपको शर्म नहीं आती है। आप अपनी सरकार से बोलें... (व्यवधान) हां, हां करते हैं, शर्म नहीं आती है... (व्यवधान) हरिजन हैं, पिछड़े हैं; चौकीदार जो गांव में रहते हैं, उनका वेतन बढ़ाइये मिनिमम वेजज 15 रु 80 पैसे प्रतिदिन के हिसाब से उनको दिलावाइये, नहीं तो वह बांडड लेबर की तरह हैं।... (व्यवधान) सुप्रीम कॅर्ट का डिक्लैरेशन है कि मिनिमम वेजज से कम जिस लेबर को मिलता है, वह बांडड लेबर है और बोस-सुप्रीम वार्पक्रम में भी कहा गया है कि... (व्यवधान)

श्री विश्वजीत पृथ्वीजित सिंह (महानाट्ट): मेरा प्वाइंट आफ आर्डर है... (व्यवधान) मेरा प्वाइंट आफ आर्डर यह

[श्री विश्वजीत पृथ्वीजित सिंह]

है कि इस सदन का ऐसे दुरुपयोग नहीं करना चाहिए हम कह रहे हैं गवर्नर के इम्प्लुमेंट्स की बात कर रहे हैं। हरिजन आदिवासी... (व्यवधान) एक मिनट मेरी बात सुन लीजिए।... (व्यवधान)

श्री राम अश्वघोष सिंह : मेरी बात सुन लीजिए... (व्यवधान) मैं कहता हूँ कि 15 रु० 80 रु० प्रति दिन के हिसाब से मिलना चाहिए।

श्री विश्वजीत पृथ्वीजित सिंह : मैं दो शब्द और कहना चाहता हूँ। मेरा कहना है कि इस सदन का कोई भी मेम्बर हो, मैं हूँ या कोई और है या हमारे पक्ष के माननीय सदस्य हैं, कोई भी है, हम सब में हरिजन के लिए, आदिवासी के लिए हमारे दिल में उनके लिए तड़प है।... (व्यवधान) एक मिनट सुन लीजिए। आपको शायद मालूम है... (व्यवधान)

श्री राम अश्वघोष सिंह : उनको 15 रु० 80 पैसे प्रतिदिन के हिसाब से दिलवायें।... (व्यवधान)

श्री विश्वजीत पृथ्वीजित सिंह : मेरा सिर्फ यह कहना है कि इस सदन का ऐसे दुरुपयोग करना और भड़काना, यह बिलकुल गलत बात है। इसको बंद करना चाहिए।... (व्यवधान)

श्री राम अश्वघोष सिंह : आप गवर्नर के लिए तो साढ़े पांच हजार से स्याहूँ हजार बढ़ाने के लिए कहते हैं, पर मिनिमिय वेजज एक्ट कहता है 15 रु० 80 पैसे क लिये... (व्यवधान)

श्री विश्वजीत पृथ्वीजित सिंह : ग्राम के चौकीदार की तनखाह बढ़ाना स्टेट गवर्नमेंट के हाथ में है, केन्द्रीय सरकार के हाथ में नहीं है।... (व्यवधान)

[उपसभापति महोदय पीठासीन हुईं]

श्री जगदम्बी प्रसाद यादव : उनके पास तो पैसा ही नहीं है। सारा पैसा केन्द्रीय सरकार के पास है। जब पैसा नहीं देगे, तो स्टेट गवर्नमेंट कहां से पैसा देगी।... (व्यवधान)

श्री राम अश्वघोष सिंह : गवर्नर का पैसा तो राज्य सरकार देगी।

उपसभापति : कृपया बैठ जाइये। जरा शांति रखिये।

SHRI CHINTAMANI PANIGRAHI:

I would just point out that there is no difference between our approach to the States and to the Centre. I sometimes go to different States. Although there is a kind of difference between the States and the Centre, I tried to find out if there are any solutions to whatever differences there are. I found out thus far in 95 per cent of cases there is agreement between the Centre and the States. There is disagreement is 5 per cent of the cases. If the differences increase, the area of disagreement is stretched to 7, 8 or 9 per cent and if we increase the area of agreement it is stretched to 96, 97, 98 per cent. So, in 98 per cent of cases we have succeeded. I went to Goa, Assam and to various other places and found that there is more and more of understanding between the Centre and the States. There is no feeling that Centre and States are different. Therefore, whenever we have an attack, maybe for a good reason, on the institution of Governors, we have an attack on the Centre, which rather always belongs to the Congress Party. Therefore, this is a mistaken effort. When Sarkaria Committee these problems, such kinds of attacks may influence their deliberations. Therefore, it may not be good for Us Or for you or for the country. So far as Congress party is concerned, let me tell you frankly that our tradition and culture is 100 years old. We have built up this kind of country with the idea of..

SHRI PARVATHANENI UPENDRA: Why do you speak here as a party man? you speak as a Minister.

SHRI, CHINTAMANI PANIGRAHI; to me of the hon friends from side commented about the treatment in Congress meeting out to the Governors. Madam, I submit that there is no kind of difference between the Centre and States. We are trying to see the development of States as much as possible. We are wedded to that kind of development. There are questions like safeguarding the interest of the minorities, safeguarding the rest of the Tribals, etc. Let all of them come to the Governor and finally these will come to us. We will try to find via media so far as all these conflicts are. vented and work them out.

Madam, now I appeal to all the hon. Members of the House to give their approval to this innocuous and simple Bill. This Bill has got only a limited objective. I appeal to the hon. Member, Mr. Upendra and other friends who have opposed to this Bill to lend their support, this enhancement of the emoluments of the Governors is a very desirable thing and very much liked by this side of the House and I appeal to them also to lend their support to this simple and innocuous Bill. Thank you.

THE DEPUTY CHAIRMAN: The question is:

"That the Bill to amend the Governors (Emoluments, allowances and Privileges) Act, 1982 as passed by the Lok Sabha, be taken into consideration.

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up the clause-by-clause consideration of the Bill.

Clause 2 was added to the Bill.

Clause 1, the Enacting Formula and Title were added to the Bill.

SHRI CHINTAMANI PANIGRAHI: Madam, I beg to move.

"That the Bill be passed."

श्री जगदम्बी प्रसाद यादव : महोदय,
एक चीज मैं जानना चाहूंगा।

राज्यपाल यांनी गवर्नर ईस्ट इंडिया कंपनी को देना है। लेकिन उस ईस्ट इंडिया कंपनी में गवर्नर के बाद गवर्नर-जनरल भी होता था। तो मैं माननीय मंत्री जी से जानना चाहता हूँ कि वह गवर्नर के बाद गवर्नर-जनरल भी बनायेगा क्या? राष्ट्रपति हो क्यों?

THE DEPUTY CHAIRMAN: The question is:

That the Bill to be passed.

The motion was put and the motion adopted.

**THE GOA, DAMAN AND DIU
MINING CONCESSIONS
(ABOLITION AND DECLARATION
AS MINING LEASES BILL, 1987**

THE DEPUTY CHAIRMAN: Now we will take up the Goa, Daman and Diu Mining Concessions Bill 1987. Shrimati Ram Dulari Sinha.

THE MINISTER OF STATE IN THE
DEPARTMENT OF MINES IN THE
MINISTRY OF STEEL AND MINES
(SHRIMATI RAM DULARI SINHA):
Madam, I move:

"That the Bill to provide for the abolition of the mining concessions in operation in the Union Territory of Goa, Daman and Diu and specified in the First and the Second Schedules, and for the declaration of such mining concessions as mining leases under the Mines and Minerals (Regulation and Development) Act, 1957, with a view to the regulation of the mines to which such concessions relate and for the development of minerals under the control of the Union and for matters connected therewith or incidental thereto, as passed by the Lok Sabha, be taken into consideration."

Madam with your permission I won't say a few words while moving the Bill for consideration of House.