

the words which have been followed in this Bill which has come before us. There is nothing very much. Let there be no illusion whatsoever, that because we are passing this enactment we will be taking a very strong step forward to stop concentration of wealth in a few hands. Nothing of that kind is going to happen. I still say that I welcome this measure. I welcome this measure very much and I congratulate the hon. Minister for taking a personal and active interest. I also congratulate him on the composition of the Select Committee which will inspire confidence. He has tried to put on the Select Committee squarely hon. Members who have been taking interest in such measures and who have evinced a keen interest in the matter and who have made certain studies of the malpractices which are obtaining in the private trade and industry.

The whole question is, how this Bill will be able to help us in our objective. I think many hon. Members will recall that even in the United States of America, when the most powerful steel industry there wanted to raise the price of steel, President Kennedy came down strongly upon it and the steel industry found itself helpless. As a matter of fact, they had to retrace their steps, much to the surprise of many people, and the industry was not permitted to raise the price of steel. But what is happening here in our country? We swear by socialism, but what happened here? Here we decontrolled steel. We decontrolled coal. These are the most essential items and the prices were raised by the private industry as and when it liked to do so. The result was that a number of essential trains had to be stopped. This is how your socialism is operating here. And that is how capitalism in the U.S.A. which as I said, is the citadel of capitalism, has been operating there. This is how these enactments restricting such practices are operating there. Therefore, we have got to be assured by the hon. Minister as to how he proposes to create confidence in the country regarding the very desirable objectives which are incorporated in this measure. I do wish that the Select Committee which goes into this measure, delibe-

rates upon it and takes into consideration the various factors and practices that are obtaining in this country and then provide a mechanism which will create confidence in the minds of the people. The hon. Member who first initiated the discussion here wanted that there should be first a permanent standing body. I think he missed the very scheme of things which has been put forward in this measure. This Commission here is going to be a permanent body. It is not only a permanent body but so far as restrictive practices are concerned it has got mandatory powers and Government has nothing to do with it.

THE DEPUTY CHAIRMAN: I think you can continue your speech, perhaps tomorrow.

SHRI HARISH CHANDRA MATHUR: Thank you very much, Madam.

4 P.M.

SHORT DURATION DISCUSSION UNDER RULE 176 RE ROLE, POWERS, FUNCTIONS AND METHODS OF APPOINTMENT OF GOVERNORS.

THE DEPUTY CHAIRMAN: There is this short duration discussion under rule 176 which permits us not more than 2½ hours. There are 15 names on the order paper and I have received another eight or nine names. I would request Members, as we have always been doing, that they select their own representatives from the different political parties and they speak. In any case, Mr. Banka Behary Das will have 15 minutes and no one else will get more than eight to ten minutes.

SHRI HARISH CHANDRA MATHUR (Rajasthan): Madam Deputy Chairman, there is already a lot of injustice done to the Governors and if you restrict the time like this you will be doing them greater injustice.

THE DEPUTY CHAIRMAN: That is why I cited the rule. We cannot always go on like this. How long do you think we can go on?

SHRI HARISH CHANDRA MATHUR: After all, what are we going to discuss? We are going to discuss the most important constitutional issue which is raging in the entire country and you want us to say something about it in eight or ten minutes. It is not fair.

THE DEPUTY CHAIRMAN: We have the rules. You are a constitutionalist yourself. How much time do you think I can give?

SHRI HARISH CHANDRA MATHUR: May I submit that time is not of very great importance here but it is the subject-matter? It is not the number of speakers that very much count. I may also submit that in the other House they discussed this for five hours. It is the same subject that we are having here.

THE DEPUTY CHAIRMAN: I do not know in what form they took it up. I do not know if it was a short duration discussion or a lengthy debate. In any case what the other House does, does not concern us. Here this is under rule 176, and Mr. Banka Behary Das will get 15 minutes and others eight to ten minutes. I think everything can be said in five minutes or so. Mr. Banka Behary Das.

SHRI HARISH CHANDRA MATHUR: Just one minute, Madam. There Mr. Nath Pai spoke for 40 minutes. When we had a half-hour-discussion here the other day it was carried on for 90 minutes; if you were to say that now this is for 2½ hours, if you apply the same proportion this can be carried on for over seven hours I believe.

SHRI B. K. P. SINHA (Bihar): Madam, the rules are no doubt there but this House has the power, in spite of the rules, to extend the period of a debate. We may spend 2 hours or 2½ hours today and have this tomorrow also.

THE DEPUTY CHAIRMAN: I do not think there is any time tomorrow.

SHRI B. K. P. SINHA: Why?

THE DEPUTY CHAIRMAN: We have got regular business on the agenda. I am willing to go with the hon. Members as far as possible. We shall have the discussion for 2½ hours and then I shall call the Home Minister at 6.30. I think that will be fair. Otherwise, what happens is, repetition goes on. I think each one can place his point of view in about five minutes. Mr. Banka Behary Das, you will have fifteen minutes.

SHRI BANKA BEHARY DAS (Orissa): Madam Deputy Chairman, I raise this discussion on the role, powers, functions and method of appointment of Governors, particularly in the context of recent political developments in Bihar and West Bengal.

I want at the outset to tell my friends here, and also you, Madam, that the entire country is worried over what is happening in West Bengal today. Before I refer to the question of the appointment of Governor in Bihar I want to say here that virtually there is a cold war between the West Bengal Cabinet and the Government of India through the Governor of that State and I am afraid that if this cold war continues because of the pressure of the Governor there who is virtually an instrument in the hands of the Central Cabinet here, this may result in a hot war and the first casualty in that hot war may be the Constitution of this country and the democracy of this country. Keeping this in the background I want to plead here with my hon. friends on the other side, and particularly with the Central Cabinet here, that in every step that they are going to take here and in every advice they are going to give the Governor through the President they should look to this aspect and they should proceed with calm deliberation and with their eye on the Constitution and democracy—which we want to nurse in this country of ours. I am not going to speak about the political aspect of this problem; though there are two aspects I want to confine myself to the constitutional aspect of this problem. Though, as you know, Madam, we are not very happy as a constituent party

there about the developments taking place there in the last six to eight months beginning from Naxalbari to the murder of some of our comrades. I want here to say that the constitutional aspect is much more important because the Governor, after the last Governors' Conference, is trying to utilise his constitutional power to topple that Government there, as an instrument of the Congress Party here. Madam, I also want to warn this Government—I do not want to give any threat as the Home Minister has done in the other House—that if they want to overvalue the devalued prestige of the Congress Party there through the Governor of that State, they will be doing the greatest disservice not only to the country and the democracy but to their own Congress Party also. Madam, the Governor is pressurizing the West Bengal Cabinet to advance the date for the summoning of the Assembly. The Cabinet had decided that the Assembly will be summoned on December 18th. There is hardly one month left and I do not know how the Heavens will fall by that time and why they are applying this pressure tactics. And while applying this pressure tactics the threat of dismissal is also there. During the last Governors' Conference in the name of the Constitution such talks of dismissal were also raised.

Madam, I have to say here that the Governor in that State is not only a constitutional head but he cannot go beyond the powers conferred on him by the Constitution of the country. Before I refer to the speech of the Home Minister here in connection with the debate on Madhya Pradesh affairs I want to refer to Basu's Constitution where he has categorically stated what the discretionary functions of the Governor are. On page 266 Basu says that the functions which are specially required by the Constitution to be exercised by the Governor in his discretion are para 9 and 18 of the Sixth Schedule and here it has reference to Tribal Affairs. Another constitutional power is under 239(2) which authorises the President to appoint the Governor of a State as Administrator of an adjoining Union Territory and it is specifically provided that where a

Governor is so appointed he shall exercise his function as Administrator independently of the Council of Ministers. So the Constitution categorically states that the Governor has discretionary powers as far as the Tribal Affairs of Assam are concerned and also as far as Union Territories are concerned. Beyond that he has no other discretionary power. I can also quote here article 163 that makes it quite clear that except in cases where the Governor is required to act in his discretion he has to act on the advice of the Council of Ministers. I do not want to quote the various judgments in this connection. The point is, specifically the Constitution-makers have mentioned that the Governor has no other discretionary powers beyond these two powers.

I also want to refer to the Madhya Pradesh case though I cannot agree hundred per cent with what Mr. Chavan said then. In regard to Madhya Pradesh Mr. Chavan told us that the Governor is the constitutional head of the State. Here I want to quote what he said, just to remind him, three or four months back. He then said something about the discretionary powers of the Governor because something else was in his mind at that time, the political aspect and the political developments in Madhya Pradesh. Now there is a different political development and he wants to topple the non-Congress Government and he is referring to a different aspect now. He says "a study of the Constitution would show that except in respect of three articles, i.e., articles, 200, 239 and 356, the Governor, as the constitutional head, has to act on the advice of the Chief Minister. That is the constitutional position". Leave aside Basu. That means after studying the Constitution of this country, after consultation with the Home and Law Ministries, he says that the Governor has discretionary powers under these three articles. What are these three articles? As you know, article 200 relates to "Assent to Bills". I will not quote it for want of time. Article 239 relates to the Centrally administered areas and article 356 relates to President's Rule. The Governor only has to report to the President that the constitutional machi-

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nery has broken down and then the President comes into the picture and the Governor comes into the picture. So, even if I go by what Mr. Chavan has said in the Madhya Pradesh case, the Governor's discretionary power is limited to this extent. Not only that. Again, I want to refer to his speech wherein he has said, "whether a particular advice was good or bad is not our concern." He is not concerned with bad or good advice, because he wants to go by the Constitution. 'Advice was given to the Governor of Madhya Pradesh and the Governor accepted that advice.' You remember that he adjourned the Assembly. Whether he acted constitutionally or not, that is the basic issue and "I have no doubt in my mind, as I have understood the Constitution, that the Governor's act was very constitutional." So, here I want to tell Mr. Chavan, who is now going to decide the future of West Bengal and of this country by interpreting the Constitution in his own way. He has categorically stated that these are the discretionary powers and beyond that, he has only to act according to the advice of the Chief Minister of the State.

Again, I want to refer a new point to Mr. Chavan. I can understand it, as long as the Cabinet has not come into existence in a State the Governor has the discretionary power and that discretionary power is a limited one. That discretionary power is about the appointment of the Chief Minister. Though he has the discretionary power, it is limited to this extent that he can only appoint the man who commands the majority in the House. Once the Chief Minister comes into being, in no affair, excepting those two mentioned in Basu's Commentary on the Constitution, he can act independently. He has to be guided by the advice of the Chief Minister of the State.

Another point is being brought here and Mr. Chavan said it in the other House. He says that the Cabinet or the Council of Ministers is there because of the pleasure of the Governor. So, the Governor can withdraw the pleasure and withdrawing the pleasure

means that the Cabinet goes. It is a dangerous theory that Mr. Chavan has started to advocate here newly taking into consideration the West Bengal affairs. Madam, I may remind you of this. Not only the Councils of Ministers of States are appointed and are allowed to continue under the pleasure of the Governors, but the Ministers at the Centre also continue because of the pleasure of the President of India. Will you allow the President of this country to dismiss the Cabinet? And here I know when a great debate was on. . .

MISS M. L. MARY NAIDU (Andhra Pradesh): We are in a majority here.

SHRI BANKA BEHARY DAS: I know, when that point was being debated by Dr. Rajendra Prasad, when he was the President of the country, what a revolt the Congress Party made at that time. The entire country was surcharged and it was said that the President had not that power. Once the Cabinet comes into being, only the Parliament comes into the picture. Only if Parliament votes it down, the Ministry is dissolved. So, here the question of pleasure or displeasure does not arise. Once the Council of Ministers comes into being—whatever the technical word be—it is the pleasure of the Assembly. When we evolved this formula in this country, the Assembly in its own sphere is supreme and once it is dissolved Parliament should be supreme. That is why the article relating to President's Rule is there, because through the President the Parliament of the country legislates for a particular State. So, there is nothing in between according to the Constitution-makers of this country. I want here to warn Mr. Chavan about not only what Mr. Basu says, but what he himself has said here in this House only six months ago. The Governor has no discretionary powers beyond that. He did not raise at that time the point about the pleasure of the Governor. That is why I may remind him about it. In the case of Madhya Pradesh when we raised the question, the Government was completely silent about it. They wanted to keep it a closed secret for themselves, so that they could utilise it, wherever they wanted to come to

power, in a different way. They want to utilise that power whenever they want to topple a particular Government. This type of elbow room should not be given to any Party or any Government of this country because after all in a democracy the people of the country are sovereign. So, I want to say that once the West Bengal Government has come into being, only when the West Bengal Assembly throws it out, when the West Bengal Assembly passes a vote of no confidence or the West Bengal Assembly defeats the Government on some major issue, either legislative or otherwise, the Governor steps in. Here also, if the West Bengal Government is defeated on the 18th December and the West Bengal Cabinet does not resign, only then the function of the Governor starts. Then only the Governor will write to the President saying that the constitutional machinery has broken down and so the President's Rule should be clamped. So, this is the limit under which we have to function. That is why I say that it is a dangerous doctrine that is being advocated. Every now and then we have said that it is for the Assembly to decide once the Cabinet comes into being.

SHRI C. D. PANDE (Uttar Pradesh) : What to do if the Assembly is not being convened at all ?

SHRI BANKA BEHARY DAS : I can tell you. That point I was going to reply. You know that according to the Constitution, there can be a gap of six months between the adjournment or prorogation and the summoning of the Assembly and during that period the Council of Ministers can continue. You know who can summon and prorogue an Assembly. You remember in the case of Madhya Pradesh it was debated. The Governor is just an instrument for summoning an Assembly or proroguing an Assembly. So, by this method if you try to topple a Government, it would be a dangerous thing. The Governor comes into the picture only when the constitutional machinery breaks down there. Then, he gives his report to the President and the wording

is given in article 356. It says if the President is satisfied that the constitutional machinery has broken down. Only on the basis of the Governor's report the President is not going to clamp down President's Rule in a State. After all the President is guided by the Council of Ministers at the Centre and the Council of Ministers have to satisfy the Parliament of the country. So, within the whole ambit of this constitutional provision, only the Assembly and Parliament come into the picture. The Governor is not there as long as the Assembly is there and the Council of Ministers have not been voted down by the Assembly there. That is so throughout the world.

Often I have quoted France. It is the spirit of the Constitution that matters. Here also I want to say something about the appointment of the Governors because in this country Governors are being appointed for partisan ends and they are being utilised to topple a particular Government. That is why the entire crisis of democracy has come to stay in this country. You remember Mr. Chavan said it in the other House. Within the past nine or ten months so many Governors have been appointed. Have you not appointed discredited people in this country ? He wants to confine himself to eight or nine months when he has been the Home Minister. What has been the past record in this country ? Have you not appointed discredited people as Governors ? I know Mr. Kumaraswami Raja, though I have regard for him, was appointed as Governor of Orissa. He was a defeated candidate. He was the Chief Minister of Madras State. He was made the Governor of my State. I do not want to give any more instances, but that is the whole tradition of the appointment of Governors. You know today you are in power, but tomorrow somebody else will be in power. If you want to utilise the Governor as an instrument in your hands to play politics and to topple non-Congress Governments, it will ultimately recoil on you. Mr B K. P Sinha is here. That is why here throughout the one and a half years that I have been in the House, we have always agitated that we must have an instrument of

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instructions for the guidance of Governors. But what has been the reply? Though on principle Mr. Chavan has always agreed to it, still within these one and a half years the Instrument of Instructions did not come. The only reason behind it is political. How to act and when to act? That is the only background in which the entire machinery has been functioning.

In this connection I want to refer a little to the question of Bihar also. Though I am not going to say much about it—because Mr. Kanungo belongs to my State and we have worked together—but is it proper for you to appoint a Congressman there as Governor of a non-Congress State?

AN HON. MEMBER: Why not?

SHRI BANKA BEHARY DAS: Why are you creating this clash? Is there no person in India who is impartial and who will be acceptable to both? Have you not appointed recently a man, though I do not know whether gazette notification has been made in the case of Orissa, and Mr. Chavan could agree to a third person who has never been in politics to be appointed? I do not know whether gazette notification has been made. Is it not a fact? You have written to the Chief Minister of the State, and I have seen so many letters in my life within these ten years even to the Congress Ministers regarding appointment of the Governor of the State. So he informally talked to Shri Mahamaya Prasad Sinha. He did not object to it. He only said that this Governor's term should be extended. But has he given you his consent? (Interruption). I am going to quote from the Constituent Assembly debates also. Madam Deputy Chairman, I am saying that there are persons in India who can command the confidence of both the Central Cabinet—the Congress Party indirectly—and the non-Congress Governments also. Why not follow that procedure by giving two or three names out of which to choose one? Only because they wanted that this Governor should be allowed to stay for a longer period you now want to take advantage of that. You know when the Constituent Assembly was there,

when the Drafting Committee was there—I do not know, some of the Members here might have been on that Drafting Committee—the proposal was there that the Assembly would give a panel of names out of which the President will nominate one and appoint him as the Governor of the State. I am going to quote, that is there in the debate also. Ultimately it was decided that the President would appoint but the convention would grow. And what is the convention? I am only quoting the speech for the information of the hon. Members. In the Drafting Committee great Shri Alladi Krishnaswamy Ayyar was there. He spoke on behalf of the Drafting Committee in the Constituent Assembly—I refer to Volume III of the Constituent Assembly debates, pages 432-433. He said: "In the interests of harmony, in the interests of good working, in the interests of smoother relations between the Provincial Cabinet and the Governor, it will be much better if we adopt the Canadian model and have the Governors appointed by the President with the convention growing up that the Cabinet at the Centre would be also guided by the advice of the Provincial Cabinet." In the Constituent Assembly on behalf of the Drafting Committee the great Shri Alladi Krishnaswamy Ayyar spoke about this and broached this idea of appointing Governors by the President of the country. He was of this view because in the Drafting Committee at one stage they all agreed that there might be a panel of names. After all the Governor is a link between the Centre and the State in this Federation. To keep that link the proposal was that the Assembly would have a panel and the President would choose out of it, but ultimately they decided about this only for the purpose of this convention. Can Mr. Chavan tell me here that their Bihar Cabinet was consulted? Can Mr. Chavan say that the Chief Minister also wrote him agreeing to this name? I have got information from the members of the Cabinet. Always they have tried to see that the present Governor is given a longer lease of life. It is nothing astonishing. You know what happened about the case of Miss Padmaja Naidu when she was given a longer lease of life as Governor.

The Chief Minister of the State requested the Government of India to give her a further tenure. That way she was allowed to stay in that State. I am astonished to say that in the other House Mr. Chavan has given this warning—I am quoting him for the benefit of hon. Members—he said: “I warn you in advance it will be a constitutional failure.” That means if the Bihar Government does not agree to Mr. Kanungo to be the Governor of the State, he is going to warn that it will be a constitutional failure. What is the constitutional failure? Article 356 is being dangled before the Cabinet of Bihar: if you do not agree to this appointment, Mr. Mahamaya Prasad Sinha's non-Congress Government will be toppled on that account. Is it not a bad precedent? Is it going to help friendly relations between one State and the Centre? That is why I am saying it is a very delicate matter, and it is a delicate matter only because there are non-Congress Governments. If you want to have harmonious relations, let us have consultations. Consultation does not mean imposition. Consultation means to a certain extent making them agree to a person. I will be happy if even at this late hour you do not insist upon this. In the name of democracy and Constitution if you want to have harmonious relations between the States and the Centre, do not try to impose persons on them through whom you can play politics, through whom you are going to topple the Government, because the very feeling of trying to topple the Government damages the very action. Your spirit might be very high, I am not bothering about it, but the very spirit of democracy and Constitution will be hampered. I again say that in this affair you should not insist.

You should allow the West Bengal Assembly to sit on December 18th. After that only a decision can be taken on the basis of the verdict of the West Bengal Assembly.

Thank you.

SHRI M. N. KAUL (Nominated): Madam Deputy Chairman, some of the grounds have already been covered by

my colleague who just now concluded, and I am not going over them. The vital section in our Constitution is: 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 insofar as he is by or under this Constitution required to exercise his functions or any of them in his discretion. This provision of our Constitution in regard to Governors is in sharp contrast with the provisions in regard to the President. There is no such discretionary power vested in the President. That is important to remember.

Authorities have been cited, Mr. Chavan's earlier speeches have been cited, as to what are the provisions in the Constitution which vest discretionary power in the Governor. I feel that such a list can never be exhaustive because though there may be express words in the Constitution vesting discretionary powers in the Governor, there is also another rule of construction that even though such words may not be used, they may be implied as it were, as the lawyers say, by necessary implication. You have got to look to the context, and if the context clearly indicates that in any particular matter the Governor is to exercise his discretion, then he has the discretion even though express words may not have been used. For instance, in article 164 it is said that the Chief Minister shall be appointed by the Governor. Now it is clear that although there are no such words as “in his discretion”, the Governor must exercise his discretion in appointing a Chief Minister who will be in a position to form a Ministry with majority support in the House. I cite that as an instance to show that in order to determine whether the Governor has discretionary power you have got to apply in some cases the doctrine of necessary implication, and you have sometimes to read a number of provisions together to discover whether the Governor has discretionary powers or not. So, we should not be limited in our conception in this matter. That does not mean that we should try to extend the discretionary power. I think that even having regard to the rule of construction that I have cited, discre-

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tionary powers are very limited. Normally the Governor is a constitutional head and must act on the advice of his Ministers.

Now, the basic question that has been raised in this case and which Mr. Chavan raised in the other House—is that we have got to construe the words “The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor”. Now, those are the crucial words “during the pleasure of the Governor”, and the issue at the moment is whether the Governor can, under these words, dismiss a Ministry in office. Now, I suggest for the consideration of the Home Minister and of the House that we have got to give full effect to the other provisions in the same article, namely, that the Council of Ministers shall be collectively responsible to the Legislative Assembly of the State. The Supreme Court in a number of cases has clearly laid down the rule of harmonious construction; that is to say, every part of the Constitution has got to be given full weight and effect, that no part of the Constitution is on a higher footing than any other part. And in order to give effect to this rule of harmonious construction, you have got to consider all the parts together and give a consistent interpretation. I suggest for the consideration of the House that so far as the power of dismissal is concerned, it is limited in one respect; that is to say, the power to determine whether a particular Ministry enjoys the confidence of the House; in other words, whether a Cabinet in office has a majority to support it, in the House. That idea is imbedded in this doctrine of collective responsibility to the Assembly. It is a prerogative of the Assembly, it is for the Assembly and the Assembly alone to determine whether a particular Government has a majority or not. Therefore, applying that rule of construction, the Governor cannot dismiss a Ministry on the sole ground—and I repeat on the sole ground—that it does not enjoy a majority in the House. That is my contention on the

constitutional aspect. I do not deny that the Governor has the right to dismiss the Ministry in other circumstances. We have not examined them. Napoleon once said—and Mr. Churchill quoted him—that the best constitution is one which is vague. What he meant was that you should devise such words as are large enough to contain the many situations, as it were and which can be interpreted according to the changing circumstances in different ways. The words may be vague but in the present context—and as they stand in the Constitution—there cannot be any shadow of doubt that it is not for the Governor to determine as to whether the Cabinet enjoys the confidence of the House or has a majority. I concede, that so far as the initial appointment is concerned, the Governor must of necessity—in exercise of his discretionary power—ascertain as to which is the party or groups which can form a Ministry and who is their chosen leader. But once he has installed a particular Government in office by ascertaining the position by such means as were at his disposal and that Government is in office for some time and it enjoys the confidence of the House during the preceding session, then whatever happens during the inter-session period, it is not for the Governor to determine, on the basis of letters that he may have received from the defectors or on the basis of information that he might have gathered, as to who commands the majority. The matter must be determined while the Assembly is in existence, by the Assembly itself, and by no other body. That is the constitutional position.

Now, let us apply the constitutional position to the facts. What are the facts? The facts are clear. The West Bengal Government enjoyed the confidence of the House during the last session. During the inter-session period, as Mr. Chavan stated in the other House, an important member of the Cabinet resigned and his followers withdrew their support from the Government, and from newspaper and other reports it is gathered, that the Government does not now enjoy a majority in the House. That is the position. But I say, in order to determine whether

the Government has a majority or not, our Constitution requires, in view of the provisions that I have cited, that the matter must be debated on a proper motion made in the House; a proper motion of no-confidence must be moved and it should be debated and a vote taken. A Government in office if it is to be dismissed on the ground that it does not command the majority of the House, it must be dismissed after a motion is carried in the House, a motion which has been deliberated upon and on which votes have been recorded. There cannot be any doubt about it.

Now, let us examine the fact, I should say that so far as the West Bengal Government is concerned, in the light of the situation that has arisen, it should have resigned. I would recall one classic example of Mr. Lloyd George. After the First World War, in 1922, at the famous Carlton Club meeting, the coalition, which was under attack by Baldwin and his colleagues, broke up and it was decided at that meeting that a large body of Conservatives would withdraw from the Conservative Party, and Mr. Lloyd George, within a matter of minutes, resigned the office of Prime Minister.

SHRI C. D. PANDE: That is what we want.

SHRI M. N. KAUL: Therefore, it is the constitutional duty, and I say that political honesty demands that the West Bengal Government, of their own accord, after new situation developed, should have resigned from their office. There cannot be any doubt that constitutional precedents, precedents in other countries are in favour of that course of action. We are today in a situation where the West Bengal Government, contrary to known constitutional conventions, are holding on to office in spite of the fact that it is publicly known that they do not now command the majority. I say, that is the position. (*Interruptions*) I have to express my opinion. Now, it is for them to resign of their own accord but they are not doing it. I think that is politically very wrong...

SHRI C. D. PANDE: Therefore, they should be dismissed.

SHRI M. N. KAUL: . . . and should be condemned on political grounds. But will not, because of the attitude that they have taken, depart from the interpretation of the Constitution which I have given, and I will have my remedies to suggest as to what is the line of thinking that the Government should pursue in this matter.

Now, so far as the Governor is concerned, there is not a shadow of doubt that so far he has acted most properly *and honourably in a very difficult and intriguing situation*.

SOME HON. MEMBERS: No.

SHRI M. N. KAUL: For instance, he has not claimed the right to summon the Assembly. The West Bengal Government has suggested 18th December. He has pleaded with them and asked them that they should advance the date. There would have been no occasion for the Governor to ask the Ministers if they had resigned of their own accord. It is because they have not done so and have put the date forward to 18th of December, that he is pleading with them and asking them to advance the date. In pleading with them, he has exercised considerable patience. I will argue that, that patience should be extended because I hold a particular and a very definite view, as I have already stated, on the constitutional position, namely, that on the sole ground that they do not command a majority, they should not be dismissed. Because they are acting wrongly, the Governor should not exercise the power, in the long run it is in the interests of the country, in the interests of democracy, that the Governor should not exercise that power. It is a prerogative of the Assembly to pass a vote of no-confidence in the Government.

I would plead with the Government to explore all possible avenues to avoid a situation of that kind. It is against the Parliamentary instinct of my whole career that a Governor should dismiss the Ministry on the sole ground

[Shri M. N. KAUL.]

that it does not command the majority. That, I am certain, is the prerogative of the House.

Now the position has boiled down to this. The Ministry says that the Assembly be summoned on the 18th December. Today is the 20th November. Madam, I say that the Government of India have put up with the West Bengal Government for nine months; I will not recall any incidents but the very words, "Naxalbari", "Gheraos", "the judgments of the High Courts" and the critical situation in the various areas and the statement of the Chief Minister himself with regard to some of his colleagues having extra-territorial links, should be sufficient. The Central Government has waited patiently. The Governor has waited patiently, and let the patience not be exhausted. Let that patience continue for a little more time. Let them concede even this point to the West Bengal Government. Let that Government continue in office and let the Assembly meet on the date suggested by them. The situation is such that one should not take drastic action. After all, what can the West Bengal Government do? The Central Government has sufficient power to issue directions under various articles of the Constitution. There is this interval of a few weeks? If the peace and tranquillity of the State is disturbed they can issue directives. If the financial credit is disturbed, if the Treasury is being emptied or, if, for instance, there is infiltration in the services, or if civil liberties are being suppressed, they can issue directives. There is a clear provision in the Constitution, article 365, which is not generally referred to, namely, if the direction of the Central Government is disobeyed, it means a breakdown of the Constitution.

Further, the Governor has ample powers. I picked up a story in the lobby of the House of Commons. When Lord Mountbatten was offered the Governor-Generalship by Pandit Nehru he consulted Churchill, who said, "Go ahead. You have unlimited right of information. You have the power of delay". The Governor has the tremen-

dous power of delay. There is no provision in the Constitution that when papers are to be put up to the Governor he should pass orders on the same day. He can ask for reconsideration. He can delay action if he thinks that the action proposed by the Government, whose life may be very short, is contrary to the Constitution. So there are ample provisions in the Constitution.

Finally, I will refer to article 355 which says:

"It shall be the duty of the Union to ensure that the government of every State is carried on in accordance with the provisions of this Constitution."

I think sufficient attention has not been paid to this provision of the Constitution. On the doctrine of implied power, where the Constitution imposes this duty on the Central Government to ensure that the government of the State is carried on in accordance with the provisions of the Constitution, I think the Central Government also has the necessary powers. I am, *prima facie*, satisfied that the Government of India can give instruction and direction to the State, if they so feel. The Governor cannot enforce an early meeting of the Assembly. But the Central Government's powers are ample. They can issue many directions to enforce their decision. And if there is a failure to act, then, of course, there is an administrative breakdown.

There is one other point. The West Bengal Government has raised a series of points, and the last point is with regard to dissolution. With regard to dissolution it is clear that dissolution stands on quite a separate footing from summoning or prorogation. Dissolution is linked with the formation of the Ministry. I feel quite satisfied that so far as dissolution is concerned, the Governor has discretionary powers because the whole question of dissolution is linked with article 356, namely, breakdown of the Constitution. He must report to the President and he must make efforts to form an alternative government. If all that fails, then

he can dissolve the Assembly. He must consult the President. He is not autonomous in his rights though he may have certain discretionary powers

(Time bell rings)

I wanted to say a few words about the appointment of Governors but I will now close. I read the speech of the Home Minister on the appointment of Governors and I am perfectly satisfied that he has acted Constitutionally and in the best traditions

SHRI CHITTA BASU (West Bengal)
Madam Deputy Chairman . . .

THE DEPUTY CHAIRMAN Ten
minutes from now on

SHRI CHITTA BASU . . . the Constitutional propriety or impropriety and the role of the Governor of West Bengal has to be correctly assessed. I am afraid a series of events that have led to the present impasse in West Bengal is not borne in mind. I am not one with the previous hon. Member Mr. Banka Behary Das, when he did not want to mix up this question of Constitutional niceties with the political situation of the country. Madam, you should know that this House shall not be able to have a correct appraisal of the situation, a correct appraisal of the crisis, unless we discuss the thing in close association with the rise and fall of the barometer in all the States. It is more of a political crisis than a constitutional one. It would be quite wrong to decide things in isolation from the political question that has been brought to the fore.

You know, Madam, just immediately after the United Front was formed, there were plots from the side of the Centre and also the vested interests to topple down the Government there. Because of the powers vested in the Central Government they would not like a Government having a different complexion to continue for full five years to serve the people of the State who have voted them to power. Because of this political motive, because of this partisan nature, there have been continuous efforts to topple down the

Government particularly in West Bengal. This is all because the 14 parties comprising this United Front in the State have got a practically pronounced socialist outlook, a radical outlook. Because of this socialist and radical outlook, the interests of the vested interests, the interests of the business tycoons in the State, the capitalists and the big business of the country, are in jeopardy. Therefore in collusion with the Centre in collusion with the defeated Congress leaders of the State they have been in a hurry to see how to bring back the discredited Congress in West Bengal into power. And for that there were a number of conspiracies in the State.

Madam, I think you will be aware of the fact that even after some months of this United Front assuming power there were conspiracies and there was a deliberate attempt to hurl our people into communal riots. There were deliberate attempts to organise communal riots so that our people may be hurled into a suicidal conflict and a communal holocaust. Is it not a fact that they organised so many counter-moves so that the Government of West Bengal would be discredited? Is it not a fact that even this Governor, Mr. Dharam Vira, was sent to perform the dirty job of the Centre to topple the Government there? They backed the recalcitrant elements of the bureaucrats there. The vested interest closed down the factories, threw thousands of our workers out of employment thereby creating confusion.

And they tried to spread canards that there has been a total absence of law and order. Of course, I shall be failing in my duty if I did not mention that certain actions of the misguided extremists in the State provided a handle to these vested interests who actually were playing the game for their own interests. Madam, in this context there were many conspiracies. On 2nd October, there was another move to have a Constitutional coup, but that Constitutional coup was defeated because of the high vigilance of the people of West Bengal, because of the magnificent unity of the constituent parties of the State. Although the con-

[Shri Chitta Basu.]

spirators were defeated temporarily, they once more organised defection, and now they want to get the Ministry toppled. Madam, when the question of Constitution comes, I beg to refer to the letter which was written by the Governor of West Bengal to the Chief Minister on the 6th of November. Herein he has said "A doubt has arisen about the present United Front Government enjoying the confidence of the majority of the Assembly. In the circumstances, the Assembly should be convened as soon as possible." Madam, what has the Governor said? The Governor has said that simply a doubt has arisen as to whether the Chief Minister enjoyed majority support of the Assembly or not. On the basis of what information has that doubt been raised? Is it on the basis of certain scribblings in the papers? Is it on the basis of some reports in the newspapers which are kept up by vested interests? Madam, in this connection, I want to refer you to the opinion of Sri K. Santhanam. He has said "It is essentially wrong to think that it is the duty of the Governor to take note of an increase or decrease in the Party strength from day to day. Once he has formed the Ministry, it is for the State Assembly to decide whether or not it should continue in office." Therefore, it is clear that it is not the duty of the Governor to see from day to day whether a particular party has increased its strength or its strength has been decreased. Here, the Governor does not say that he is satisfied that the present Chief Minister has lost his majority. Simply a doubt has been raised, and the Chief Minister of the State agreed to summon the Assembly on the 18th of December, sufficiently in advance, before the expiry of six months after the day of prorogation of the Assembly. Therefore, what has been the crisis? If the Governor had agreed to the summoning of the Assembly on the 18th December there would have been no crisis. There is no iota of crisis there. But they want to precipitate a crisis because they have got a political ambition to fulfil. Therefore, the whole thing was organised in this way. So, Madam, you will find the political aspect of the thing.

Now, again the West Bengal Government has written to the President of the country about the controversy raised with regard to the discretionary power of the Governor on the question of dismissal. This was because of the opinion of the Law Ministry and because this matter has been brought up before. While the Constitution is clear that the question whether a particular Chief Minister enjoys majority support has to be determined finally on the floor of the Assembly, the Law Ministry comes out with the opinion that the Governor can dismiss a Cabinet on the basis of material or information extraneous to the proceedings of the Assembly, in the exercise of his discretionary power. But in the matter of discretionary power, it has been elaborately discussed by my hon. friend, Shri Banka Behary Das, and also by Mr. Kaul that the Governor has got no discretionary right other than what is defined in the Constitution with reference to discretionary power. But the Law Ministry comes and says that the Governor can dismiss a Cabinet on the basis of information extraneous to the proceedings of the Assembly. Thus they have raised a great dispute, a great controversy. And the West Bengal Cabinet has referred the matter to the President so that the President may be pleased to seek the opinion of the Supreme Court to settle the dispute because it is necessary to see that the Constitution of our country is not assassinated. But why is it that the Central Government, the Law Ministry or the Home Ministry, does not consider it tenable? Am I to take it that the decision and opinion of the Law Ministry or the decision and opinion of the Home Ministry are infallible, and that the President cannot refer the matter to the Supreme Court to seek its opinion? Why is it not being sent to the Supreme Court to have the final opinion on the dispute as to the power of the Governor with regard to dismissal of a Cabinet, which is a very vital matter? Well, the matter can be settled in a very Constitutional way. The country can know that the Central Government has got no ulterior motive to bring about the fall of the State Govern-

ment. Now since the Government has disagreed to advise the President to refer the matter to the Supreme Court, I am constrained to make this comment that our conclusion that the Government at the Centre is utilising the office of Governor as an instrument to fulfil their partisan purpose, is still more fortified to day. Therefore, I want to conclude that it is more a political question than a Constitutional one, and this Government wants to utilise, wants to twist the Constitution to suit their own purposes. Therefore, in the interest of democracy, in the interest of upholding the Constitution, it is necessary that the West Bengal Governor should be told that he has got no power to dismiss the Cabinet. In this connection, I want to warn this august House that the people of West Bengal will not take things lying low. There are powerful mobilisations thousands and lakhs of students, youths and workers who have got into being this Government of theirs after years of struggle, after years of toil; they are not going to see that this Government of theirs is toppled down for the partisan interest of the Centre. Madam, therefore, I want to request this Parliament of ours to take note that it will be a most dangerous day if the Governor uses his discretionary power to kill, to assassinate the Constitution. And in defence of this Constitution, the people of West Bengal will rise and we invite the Members of Parliament, who are also guardians of the Constitution, guardians of democracy, to stand by us so that the Constitution of the country is upheld.

5 P.M.

श्री सुन्दर सिंह भण्डारी (राजस्थान) :
उपसभापति महोदया, कुछ ऐसा संयोग है कि आम चुनाव के बाद जब संसद के अधिवेशन हुए तो गवर्नर के खरियों के संबंध में चर्चाएँ दोनों सदन का विषय बनीं। बिहार में इस समय विवाद खड़ा हुआ है एक विशेष व्यक्ति के गवर्नर नियुक्त किये जाने पर। मैं स्पष्ट रूप से प्रारम्भ में यह कह देना चाहता हूँ कि वह कांग्रेस के हैं या गैरकांग्रेसी है या वहाँ पर कांग्रेस

की सरकार है या गैरकांग्रेस। सरकार है इससे इस सवाल पर रंग नहीं डाला जाना चाहिये और जो वैधानिक प्रश्न उठा है उसको ही हल करने की हम कोशिश करें।

संविधान में तो कहीं पर भी यह नहीं है कि मंत्रिमंडल की सलाह लेनी चाहिये गवर्नर की नियुक्ति के बारे में। लेकिन गृह मंत्री महादय ने ही जैसा कि माना है उन्होंने एक्स्ट्रा कांस्टीट्यूशनल कंवेंशंस निर्माण किये हैं कि मंत्रिमंडल की सलाह लेनी चाहिये। अब जब मंत्रिमंडल की सलाह की बात है तो एकदम हम दूसरे मोर्चे पर जायें। मंत्रिमंडल की सलाह का मतलब राइट आफ वीटो नहीं होता, मंत्रिमंडल की सलाह का मतलब लास्ट वर्ड आन दैट प्वाइंट नहीं होता, तो मैं समझता हूँ कि हम जानबूझकर संविधान की भाषाओं के साथ खींचातानी करना चाहते हैं। आखिर इस एक्स्ट्रा कांस्टीट्यूशनल कंवेंशन को भी हमको जरूरत क्यों महसूस हुई, हमने इसे डालने की आवश्यकता क्यों महसूस की? इसी वजह से कि आज वहाँ की सरकार गवर्नर और मंत्रिमंडल इन दोनों को मिल कर चलती है, उसी के समझौते से, सद्भावनाओं से चलाई जा सकती है, और इसलिये संविधान में इस प्रकार की कोई व्यवस्था के न होते हुये भी एक परिपाटी बनी, एक परम्परा बनी कि मंत्रिमंडल की सलाह लेनी चाहिये। इस प्रकार के उदाहरण हैं कि जब मंत्रिमंडल ने चाहा कि किसी गवर्नर का कार्यकाल बढ़ा दिया जाए तो बढ़ाया गया और इसी बिहार में—हमारे यहाँ के एक माननीय सदस्य, यहाँ मौजूद नहीं हैं श्री जयरामदास दौलतराम—वह जब बिहार के गवर्नर थे तब यह तय कर लिया गया था कि उनको एक्स्टेंशन मिलेगा परंतु वहाँ को कैबिनेट ने उसको पसन्द नहीं किया तो जल्दी जल्दी उनके स्थानांतरण की भी व्यवस्था की गई। आखिर,

[श्री सुन्दर सिंह भंडारी]

मंत्रिमंडल की सलाह की कुछ कीमत तो है। मंत्रिमंडल की सलाह के बिना हम गवर्नर को किसी जगह भेजें और फिर हम कहें कि अगर कसी भी प्रकार के थोपे हुये गवर्नर के साथ वहां के मंत्री या वहां का मुख्यमंत्री कोआपरेट नहीं करेगा तो उसमें से कांस्टीट्यूशनल डेडलाक पैदा हो जायेगा? कोआपरेशन संविधान की कौन सी भाषा है? आखिर संविधान में ही जो रिपोर्ट्स देने की आवश्यकता है, संविधान के अन्तर्गत जो जानकारीयां प्राप्त करने की जरूरत है उसमें क्या कोआपरेशन का सारा अर्थ समाविष्ट हो जाता है या हम केवल इन कागजी कार्यवाहियों से केवल कानूनी मुद्दों के आधार पर गवर्नर और चीफ मिनिस्टर के सम्बन्धों का निर्धारण करना चाहते हैं या कुछ इस प्रकार के आपस में मिलजुल कर सहृदयता के सम्बन्ध उनके अन्दर निर्माण हों इस बात की अपेक्षा हम करते हैं? गृह मंत्री महोदय कहते हैं कि उन्होंने बिहार के मुख्यमंत्री की इसम स्वीकृति प्राप्त कर ली और बिहार के मुख्यमंत्री का कहना है कि ऐसी कोई स्वीकृति नहीं दी गई...

श्री शीलमद्र याजी (बिहार) : झूठ है।

श्री सुन्दर सिंह भंडारी : आखिर झूठ कौन बोलता है। मैं यही कह सकता हूं कि अगर गृह मंत्री की बात पर विश्वास किया जा सकता है तो फिर किसी भी प्रान्त के मुख्य मंत्री की बात पर भी अविश्वास करने का किसी को कोई हक नहीं है। क्या गृह मंत्री के पास कोई रिकार्ड है? वे कहेंगे कि ऐसी चीजों के रिकार्ड नहीं रहते। तो आज ये दोनों चीजें बराबर की हो गईं। मैं यह पूछना चाहता हूं कि क्या बिहार के मुख्य मंत्री ने वर्तमान गवर्नर के कार्यकाल को मार्च तक बढ़ाने की बात कही थी और उसको

स्वीकार कर लिया गया था? कहेंगे कि रिकार्ड पर कोई चीज नहीं है लेकिन रिकार्ड पर कुछ चीज न होत हुये भी अगर यह बात हुई है, अगर यह बात मानी गई और अगर उम संदर्भ में श्री कानूनगो का नाम उनके सामने लिया गया तो इसका मतलब यही था कि कि श्री कानूनगो मार्च महीने के बाद वहां जायेंगे, मार्च महीने के पहले वहां नहीं जायेंगे। तो फिर इस छोटी सी बात पर बिहार में जबरदस्ती मामला खींचा गया। आखिर, कांस्टीट्यूशन में भी एक गुंजाइश है कि कोई भी गवर्नर कार्यकाल समाप्त होने के बाद भी तब तक अपने पद पर बना रहेगा जब तक कि दूसरा गवर्नर चार्ज नहीं लेता है। मैं चाहता हूं कि गृह मंत्री महोदय कानूनी झगड़े और संवैधानिक अधिकारों के पीछे न जा कर बिहार में इस सवाल पर कोई भी ऐसी परिस्थिति या ऐसी बात के निर्माण करने की कोशिश न करें जब कि आपस की बातचीत में से ही समझौते की गुंजाइश है। आपस में बातें हुई हैं और आगे भी इस संकट को टाला जा सकता है।

अब मैं बंगाल पर आना हूं। हिसाब में तो वहां एक प्रान्त की सरकार है और यहां केन्द्र का सरकार है, यहां पर प्रेसिडेंट हैं, वहां पर गवर्नर हैं। यहां पर केन्द्र की सरकार में बैठे हुये लोग, जब संसद् का अधिवेशन न हो और उनमें से कुछ लोग, टूट कर चले जायें, वह लोग कांग्रेस छोड़ दें और बाबेला मचे तो फिर प्रेसिडेंट को क्या अधिकार है? उस समय आप कहेंगे कि प्रेसिडेंट को कोई अधिकार नहीं है। यहां पर तो कैबिनेट पार्लियामेंट को रिसपांसिबिल है, लोक सभा को रिसपांसिबिल है। जब तक उसके खिलाफ कोई प्रस्ताव पास नहीं होता सरकार हट नहीं सकती और प्रान्त में डिसक्रीशन के आधार पर ही परिस्थिति में एक बदल करने की बात कही है। सब से बड़ी चिन्ता आपको इस

बात की हो गई जब कि बंगाल के एक मंत्री ने इस्तीफा दे दिया, उसके साथ और कुछ लोगों ने इस्तीफा दे दिया, गिनती अगर घट गई, आधे से कम हो गई, तो फिर उस अल्पमत की सरकार को वहां पर बने रहने देना बिल्कुल संविधान की हत्या है और गवर्नर का डिसक्रीशन इस बात की मांग करता है कि उसे अपनी तरफ से आगे बढ़ कर इसमें कदम उठाने चाहिये ! माफ करिये, गवर्नर तो सारे हिन्दुस्तान में हैं ! दिसम्बर 1966 में राजस्थान के मंत्रिमंडल से श्री कुम्भाराम आर्य और उनके 22 साथियों ने इस्तीफा दे दिया था, गवर्नर ने इस्तीफा मंजूर किया बाकी के मंत्रियों के साथ और सारे आंकड़ों के हिसाब से राजस्थान की कांग्रेस सरकार सुखाड़िया जी के नेतृत्व में अल्पमत की सरकार बन गई थी, किन्तु राजस्थान के गवर्नर को उस समय अपने डिसक्रीशन में एक अल्पमत की सरकार को बर्खास्त करने या वहां पर अपने डिसक्रीशन का इस्तेमाल कर के वहां की सरकार को हटाने की बात दिमाग में भी नहीं आई ! वह सरकार चलती रही, लोगों ने मांग की, लीडर आफ दि अपोजीशन ने मांग की कि इन लोगों ने छोड़ दिया है, वहां सरकार अल्पमत में रह गई है, असेम्बली का सेशन बुलवाइये और अपना इंतजाम कीजिये तो बताया गया कि छः महीने का अधिकार मुख्यमंत्री को है हम कैसे अपनी तरफ से वहां का सेशन बुलाने की बात कर सकते हैं और राजस्थान की अल्पमत वाली सरकार चली और उसी सरकार के लिये आगे भी आम चुनाव के बाद उन्हीं गवर्नर के द्वारा विभिन्न प्रकार के खेले खेले गये उस सरकार को बदस्तूर कायम रखने के लिये । अनेकों उदाहरण हुये हैं । मध्य प्रदेश में जब यह तय हो रहा था कि विधान सभा में बहुमत किसके साथ है तो इसी डिसक्रीशन में वहां के गवर्नर ने अधिवेशन नहीं

होने दिया ! क्यों ? जहां पर विधान सभा का अधिवेशन हो रहा हो वहां गवर्नर डिसक्रीशन का इस्तेमाल करने के लिये गये हैं कि वहां विधान सभा का अधिवेशन न हो । राजस्थान में मांग की गई हम यहां पर टेस्ट कर लें, विधान सभा का अधिवेशन हो रहा था, असेम्बली को सस्पेंड कर दिया गया लेकिन मंत्रिमंडल को छोड़ने का अगर यह अर्थ होता है कि वहां मीन्स आफ कम्यूनिकेशन डिसरप्ट हो जायगा जैसा कि आज प्रचारित किया जा रहा है कि वहां पर एक अराजकता की और आतंक की स्थिति का निर्माण हो जायेगा, तो फिर वह सरकार कांस्टीट्यूशनल गवर्नमेंट को चलाने के सब प्रकार के मारल अधिकारों से वंचित हो जाती है (*Time bell rings*) अब दुर्भाग्य यह है कि न तो आज गवर्नर को मजबूर करना चाहिये कि असेम्बली कब बुलाई जाय, उसको सलाह देने का अधिकार है वह प्रिवेल अपील करे यह भी माना जा सकता है लेकिन मजबूर नहीं कर सकते और न बुलाने के आधार पर मंत्रिमंडल को बर्खास्त करने का तो विचार भी नहीं किया जा सकता । प्रश्न यह है कि हमने आज तक इस परिस्थिति पर विचार क्यों नहीं किया । अपने कांस्टीट्यूशन में इन मारी परिस्थितियों का विचार करके व्यवस्था करनी चाहिये थी और वह है कि विधान सभा के अधिवेशन को उस सदन के आधे से ज्यादा सदस्यों द्वारा मांग करने पर स्पीकर द्वारा विधान सभा का अधिवेशन बुलाया जाना चाहिये आज यही एक मार्ग है जो इस प्रकार की किसी भी परिस्थिति में से बीच का रास्ता निकाल सकता है । गवर्नर भी गवर्नर की जगह पर रहेगा और चीफ मिनिस्टर का अधिकार और उसकी हाउस के प्रति रेस्पान्सिबिलिटी कायम रहेगी और उसको अल्पमत या बहुमत साबित करने का जो वैधानिक नियम है उसके

श्री सुन्दर सिंह भंडारी

अनुसार चलना होगा। हम लोग इस परिस्थिति के आधार पर जल्द से जल्द संविधान में इस बात की व्यवस्था करें तो फिर जो एक बहुत बड़ा अन्याय दिखायी देता है कि अल्पमत की सरकार छः महीने तक कैसे चालू रखी जाय, उसके लिये भी एक बीच का रास्ता निकल आया और अगर वास्तव में उस विधान सभा के सदस्यों का बहुमत उस मंत्रिमंडल में विश्वास नहीं रखता तो तुरन्त स्पीकर के पास पहुंच कर विधान सभा का अधिवेशन बुनाने की उससे से गुंजाइश रहेगी और उसमें इस बात को साबित करने का एक वैधानिक मार्ग निकल जायेगा कि उस मंत्रिमंडल के पीछे बहुमत का समर्थन है या नहीं है। मैं चाहता हूं कि इस परिस्थिति में कोई भी जल्दवाजी का कदम बंगाल में न लिया जाय, बिहार में मंत्रिमंडल को विश्वास में लेकर ही गवर्नर को वहां भेजा जाय और इस बहुमत और अल्पमत के प्रश्न का फैसला करने का अंतिम अधिकार फ्लोर आफ द हाउस पर ही होना चाहिये, इस परिपाटी को अपना कर हम सब लोग स्वस्थ परम्परा बनाने का प्रयत्न करें। धन्यवाद।

दुर्भाग्य से, हिन्दुस्तान के गवर्नरों ने आज तक इस डिस्क्रिशन का उपयोग कांग्रेस पार्टी की सरकारों के विरोध में नहीं उठाया है और इस कारण से यह डिस्क्रिशन आज केवल कांस्टिट्यूशनल डिस्क्रिशन नहीं है, दुर्भाग्य से इसके पीछे का सारा इतिहास पोलिटिकल मोटीवेटड हो गया है और इसीलिये आज वहां पर ये सवाल खड़े हो रहे हैं। क्योंकि यह निश्चित नहीं है कि वहां का बहुमत किसके साथ है, अल्पमत किसके साथ है। लेकिन गवर्नर को अधिकार है मुख्य मंत्री को इस बात की सलाह देने का, उससे आग्रह करने का कि एक परिस्थिति अविश्वास की, असंतोष की, प्रान्त में निर्माण हो रही

है और अल्पमत के आधार पर सरकार बनी रही तो लोगों का विश्वास उठ जायेगा, तुम्हें विधान सभा का अधिवेशन बुला कर अपना ताकत का परिचय देना चाहिये।

हमने यहां पर यह बात रखी कि मिनिस्टर और चीफ मिनिस्टर "एट द प्लेजर आफ द गवर्नर" अपने पद पर बने रहेंगे। मैं पूछना चाहता हूं "एट द प्लेजर आफ द गवर्नर" क्या सबजेक्ट टु द व्होट आफ द कांफिडेंस इन द असेम्बली है कि नहीं? आज अगर गवर्नर चाहे कि नहीं यह मुख्य मंत्री बहुत अच्छे हैं, जैसा कि मध्य प्रदेश में मिश्रा जी को बहुत अच्छा मानकर गवर्नर उनको सीने से लगाना चाहते थे, लेकिन जब विधान सभा में वह हार गये तो गवर्नर का प्लेजर उनको कायम नहीं रख सका। तो एट द प्लेजर आफ द गवर्नर भी उनकी जो जोइन्ट रिसॉसिबिलिटी है हाउस के प्रति उनकी जो जिम्मेदारी है, उसके नीचे यह चीज बंधी हुई है और प्लेजर अब अगर न हो और विधान सभा की फ्लोर पर वह मुख्य मंत्री या उसकी सरकार हार जाती है तो गवर्नर को अपने प्लेजर को छोड़कर हाउस की मर्जी के अनुसार गाइड होना पड़ेगा।

आज मुझे एक बात कहनी है : बंगाल की सरकार ने जो यह दूर की तारीख तय की, पहले उन्होंने एक कारण बताया कि वह प्रोक्योरमेंट कैम्पेन में लगे हुये हैं, अनाज की वसूली का सवाल है, जन साधारण से संबंध रखने वाला प्रश्न है, इसलिये उन्हें फुर्सत नहीं विधान सभा की बैठक जल्दी बुलाने की। आज मैंने अखबारों में पढ़ा कि वहां पर, बंगाल में, विद्यार्थियों की परीक्षाएं हो रही हैं, विद्यार्थियों की परीक्षाएं 18 दिसम्बर तक समाप्त होनी और अगर 18 दिसम्बर के पहले 'मंत्रिमंडल में कोई परिवर्तन आ गया तो वहां के कम्यूनिकेशन के डिस्टर्ब होने का खतरा पैदा हो जायेगा, विद्यार्थियों की परीक्षा

देने में बाधाएं उपस्थित होंगी । म समझता हूं, यह तर्क तो उस मंत्रिमंडल के लिये, उस मुख्य मंत्री के लिये, बिलकुल शोभा देने वाला तर्क नहीं है । वह हाउस का बहुमत प्राप्त करके विधान सभा में बने रहें, हाउस का बहुमत प्राप्त न होने के बाद ही उनको मंत्रिमंडल छोड़ना पड़े ।

SHRI A. D. MANI (Madhya Pradesh): Madam, in the course of the few remarks that I want to make in this debate, I would like to confine myself to the issues which have emerged in the Bengal crisis as well as in the refusal of the Bihar Ministry to accept Mr. Kanungo. The issues are :

(a) Whether the Governor of West Bengal was justified in tendering advice to the Government asking them to convene the meeting of the Assembly to take a vote of confidence from the Legislature in November instead of on December 18.

(b) Whether the Governor has absolute powers in dismissing the Ministry, if he is not satisfied that the Ministry does not have the confidence of the Legislature;

(c) Whether it is open to a State Government to object to the appointment of a Governor and if so, whether the Central Government is called upon to consider that objection and not force a Governor on a State as it has happened in the case of Bihar.

I broadly agree with the position that has been taken up in this debate that the Constitution really envisaged the Governor to be a Constitutional Head of the State, bound by the advice of his Ministers. When Mr. D. P. Mishra in Madhya Pradesh, tendered advice to the Madhya Pradesh Governor to prorogue the Assembly when he was faced with a virtual vote of want of confidence from the Legislature on Educational demands, I took up the position that the Governor was not justified in accepting the advice of Mr. Mishra. Mr. Ajit Prasad Jain, who was a Member of the Constituent Assembly, has contributed an article to the 'Statesman' recently on this issue and has

pointed out that in the Constituent Assembly, it was decided that the Governor's position must be that of a Constitutional Head, bound by the advice of the Ministry in such matters as convening of the Legislature. That might have been the position in 1947 and 1951 but we all expected, when the Constitution was drafted, that the Governor would be a constitutional person and the Ministers also would be constitutional Ministers. It is a bilateral arrangement. On the one side we wanted the Governor to accept the advice of the Ministry and on the other we expected the Ministry to behave in a manner in which the Ministry should behave in a parliamentary form of Government but unfortunately in Bengal, what has happened is, the Ministry appears, according to the Press reports, not based on my information, to have lost confidence. I do not like a Governor calling upon a parade of Legislators to come to identify themselves before him. The Legislature in a State is not a theatrical company where males can be turned into females and females turned into males. It is most undignified for a Governor to have a parade of the legislators in Raj Bhavan and I would suggest to the Home Minister that he should advise the Governors concerned that whenever there are such parades, they should call the Chief Ministers of the State and ask them to watch the parade, so that the Chief Minister would be in a position to place his point of view before the Governor.

Madam, as far as the advice tendered by the Governor of West Bengal is concerned, the point to remember is that it is still only an advice; he has not called a session of the West Bengal Assembly in the month of November this month. Under the Constitution the Governor has the power to tender advice to his Ministers, and it is for that reason that the Constitution provides for Bills to be presented to him to get his assent. He has the right even to send a Bill back to the Legislature with amendments, or to reserve it for the President's assent. As long as the Governor has the discretion to tender advice, I do not think he has acted improperly in advising the West Bengal Government to convene a meet-

[Shri A. D. Mani.]

ing of the Assembly as early as possible. But, Madam, I would stop there. Now, if the Governor, on the basis of the advice that he has tendered, seeks to dismiss the Ministry of West Bengal, he would be acting unconstitutionally because, unless the West Bengal Ministry is defeated on the floor of the Legislature, the Governor has no right to dismiss the Ministry.

SHRI P. N. SAPRU (Uttar Pradesh) : Quite right.

SHRI A. D. MANI : He has got the right to tender any advice to the Ministers, but such advice need not be unnecessarily publicised by them in the Press. It is open to him to say that he thinks that the Government has lost the confidence of the Legislature.

Madam, I would like to say here in this connection that all this trouble has arisen because the Governor of West Bengal, Mr. Dharma Vira for whom I have got great respect; I have known him very well—happens to be a retired civil servant. Retired civil servants also are entitled to their position in public life, but I would want to warn the Home Minister that as long as the Government of India follows the policy of appointing retired civil servants, such Governors will be under constant attack that they are acting under the instructions of the Central Government; it is bound to happen. When a man who has been obeying the orders of some Minister or the other for thirty years of his life becomes the Governor of a State, the public are bound to say, "You are not acting on your own. You are acting under the instructions given to you by the Central Government." And I would suggest that, if the Home Minister wants to revive the respect and honour attached to offices like Governorships, he should not appoint retired civil servants, he should appoint men from public life to hold this position.

SHRI B. K. P. SINHA : Does the hon. Member know that Bengal and Kerala were consulted and they wanted civil servants as Governors?

AN HON. MEMBER : No, no.

SHRI A. D. MANI : I do not know. I would also like to suggest to the Home Minister that administrative efficiency and position in public life are not confined to one party. There have been so many Ministers who have been appointed, but not one person of accepted public independent standing, who is known to be a very fearless person, has been appointed as Governor.

It has been stated that the Governorship is being distributed to party hats, persons who are not maintaining the position that a Governor is excepted to maintain under the Constitution. Now the Governor of West Bengal is subjected to great attack today in his own State, and when people are going about saying that they want his head on a charger, it is because the office of Governor has lost public respect in the State of West Bengal, and people think that the Governor of West Bengal is an instrument of the Central Government which wants to get rid of the ULF Government in West Bengal just because it happened to be a non-Congress Government.

Madam, I would like to say here that there is one set of circumstances in which the Governor can dismiss the Ministry. If, for example, the threat materialises, and train services are disrupted or postal communication is disrupted, if there is open defiance of law and order, if there is the mob coming to support the Government against the Governor, then the Governor will be justified in submitting the report under article 356 of the Constitution, to say that the Government in West Bengal is not being carried on in accordance with the Constitution, and he has got the right to suggest that the President should enforce Presidential rule in the State.

Madam, I would like to go on to the last point about the appointment of Mr. Kanungo as Governor of Bihar. Madam, I would like the hon. Minister to refer to the precedent set by Sir Beredale Keith; in Australia, when the British wanted, some years ago, to appoint a Briton as the Governor-General of Australia, the Australian

Government objected to it. A similar objection was taken by the South African Government. I do not like the Chief Ministers recommending other persons for extension either because, if a Governor has to behave independently, he should not depend for the extension of his office on the Chief Minister. It was thoroughly improper, if I may say so with great respect to the Chief Minister of Bihar, to recommend that Mr. Anantasayanam Ayyangar should get another lease of five years, but he had the right, whatever informal talks he might have had with the Home Minister, Mr. Chavan, to protest against the appointment of a person who did not enjoy the confidence of the Government of Bihar. I hope that Mr. Chavan would not make an issue of it and see that he forces down Mr. Kanungo on the people of Bihar, because the spirit of the Constitution calls upon the Government of India to see that the States carry on in harmony with the Centre. Now I have very great respect for Mr. Kanungo, but if the Government of Bihar has objected to his nomination, he should be sent to some other State. He could be sent to Andhra. I have no objection to his going to any other State where the Congress has the majority support, and I would appeal to Mr. Chavan to restore the respect for the office of the Governor by appointing proper people to this office and not make the Governors objects of discredit in India.

THE DEPUTY CHAIRMAN: I still have a number of names from the original order paper, plus so many. Now if everybody keeps to fifteen minutes at the most, then I may be able to call others also, Mr. Mathur.

SHRI B. D. KHOBARAGADE (Maharashtra) : It will be very difficult to accommodate all. Even at the rate of ten minutes each for the remaining ten listed names, it will not be possible to accommodate all today. We may postpone this debate to tomorrow.

THE DEPUTY CHAIRMAN: A Short Duration Discussion cannot be postponed to the next day. We must finish it today.

SHRI HARISH CHANDRA MATHUR: If it is the wish of the House, it can be done also.

SHRI P. K. KUMARAN (Andhra Pradesh) : We can continue the discussion tomorrow also.

THE DEPUTY CHAIRMAN: I am here to listen to all points of view but I do not think we should go till tomorrow.

SHRI HARISH CHANDRA MATHUR: Madam Deputy Chairman, we are not discussing any party issue today. It is not a party matter at all. We are discussing a matter of considerable constitutional importance, and if this episode of Bengal and Bihar was not there, and if we were just to consider what are the constitutional powers of the Governor, I think we would have been able to make a much more objective analysis of the entire matter. Therefore, I propose to deal with this matter in three parts. I will keep Bengal and Bihar completely out of my mind. I will first like to deal with the constitutional matter, as to what are the powers of the Governor, how a Governor should be appointed and what say particular State Government have in this matter. Now, if we want to have a clear picture of the issue in its perfect objectivity and understand the entire background, it would be advisable to go to the discussion in the Constituent Assembly.

Madam, I would like to recall the attention of this House to two very notable features. One is that, unlike the office of the President, the office of the Governor is not an elected office. Those friends who have cared to look into the proceedings of the Constituent Assembly can find that even the office of the Governor was at first proposed and intended to be made an elected office. But after considerable amount of discussion it was considered advisable, for very good reasons, that the Governor should be an appointee of the President. Mr. Barjeshwar Prasad brought forth an amendment in the Constituent Assembly when the position of Governors was

[Harish Chandra Mathur.]

being discussed, and the very words I would like to refer to are that, in the interest of all-India unity, and with a view to encouraging centripetal tendencies, we must have a Governor who is the appointee of the President. They had in their mind that the Governor has dual responsibility. He is a necessary component, a composite part of the State administration where he functions as the constitutional Head of the Government, discharging various responsibilities. He has also a far more difficult and delicate responsibility to discharge. These are the responsibilities which he has to the President who has appointed him. It would not possibly be correct to say that he is an agent of the President. But he has certain very important responsibilities to discharge. He has to point out to the President, to report to the President on certain very vital issues. He has to report to the President on certain issues where he has to be absolutely independent of the State Government. If he were to be dependent on the State Government he would never be able to discharge those functions and responsibilities which he has to discharge towards this country, towards the unity of this country, towards the strength of this country and towards the President of India. That has got to be very clearly understood.

SHRI P. N. SAPRU: On a point of clarification, is there any provision in the Constitution which requires the Governor to report to the President on his own discretion? These words "on his own discretion" were used in the old Government of India Act. They are absent in the Constitution. Let my hon. friend who is an important Member of the administration clarify this point.

SHRI HARISH CHANDRA MATHUR: I do not want to join issue with my hon. friend, but I shall cover that point and a little more than that also. Possibly, to set the matter at rest, I will refer to what Dr. Ambedkar who was piloting the Constitution said. He was stating what are the functions and duties of the Governor. I will quote his exact words, what he

said on this particular occasion. Dr. Ambedkar elucidating the role of the Governor made a distinction in the Constituent Assembly between the functions of the Governor and his duties and he observed:

"While the Governor had no functions he had two kinds of duties clearly, one, in the matter of making or dismissing the Ministry, and two, to advise the Ministry on alternatives and to have reconsideration."

Well, if we read the Constitution itself, we find that the Constitution gives a lot of discretionary powers to the Governor and mentions matters where he has to exercise his discretion. Articles 163 and 164 have been read out to the House before and my hon. friend Shri M. N. Kaul who waxed eloquent and for whom I have very great respect because he has been associated with these matters for a much longer time than I, as a matter of fact, and has made a proper study of it, said that article 164 should be read as a whole. Well, the Governor and the Ministry are there. The appoint of the Chief Minister has to be made by the Governor. The Chief Minister has got to be appointed by the Governor and he has necessarily got to exercise his discretion. I go a step further than Mr. Kaul. The Governor has no absolute discretion in this matter. His discretion is limited. He has to examine who is the head of the majority party and he has no discretion to call anybody else. He can only summon the one who commands the majority and according to his judgment and using his discretion he has to decide that such and such a person commands the majority and he can summon him alone. And then he has also the power of dismissal. He has the power to dismiss the Ministry. Mr. Kaul goes further and says that if you read the article as a whole it is only if the Legislature passes a vote of no-confidence that the Governor can dismiss the Ministry. I would respectfully submit to the House that when a vote of no-confidence is passed and the word "dismissal" has been referred to

in a number of speeches the resignation is immediately submitted. There is no question of any dismissal. The question of dismissal arises only when there is failure of the Constitution. In such a case the Governor uses his discretion. It may be that the nature of the constitutional failure will come in. According to Mr. Mani, when such and such things happen, when a particular type of constitutional failure happens then the Governor has the right to dismiss the Ministry. My hon. friend Mr. Kaul would say it is politically dishonest. Again I must say that I am not talking of West Bengal. A Chief Minister should have failed in his constitutional duties and still he cannot be dismissed? He must have the power to discharge his responsibilities to the President. Am I to believe that even when the Governor is fully convinced, I am not talking of Bengal, I say again, let us forget that case completely if the Governor is convinced that there has been a Chief Minister who has been primarily responsible for a serious breach of constitutional responsibility, that he has not taken the advice of the Governor, then certainly the Governor cannot be helpless. It may be good advice to say that he should exercise patience. I can understand that and I will come to that later on. But the Governor has certain responsibilities to discharge, for protecting the Constitution. He has been made the guardian of the Constitution. Madam, unfortunately what has happened is that during these twenty years or so we have come to take the office of Governor as if he is a ceremonial figure-head, head of that particular State. There are certain reasons, certain historical reasons for that. That has happened because we have had in India the same party in power both at the Centre and in all the States. Therefore these constitutional provisions had not to come into play. As a matter of fact, all these constitutional provisions had got into disuse. But if we look into them and examine them with complete objectivity, we will find that what I am saying will be borne out by what has been discussed in the Constituent Assembly and by what is written in the law in

so many words in the Constitution itself and what is possibly practical wisdom also.

Having said that I need not go into the other discretionary powers of the Governor. The Governor has discretionary powers under article 200. He has to exercise his discretion under article 365 and he has to make a report. But the crucial point with which we are today concerned is, how is the Governor to exercise his power? What patience he has to exercise? What restraint he has to exercise, all that form another matter and I am not going into that. But I definitely feel that if the Constitution is to be protected if the integrity of this country has got to be maintained and if we are to go ahead in a really democratic manner, and if democratic values are to be preserved, then the Governor will have to be armed with these powers and I do feel that the Constitution itself has armed the Governor with all these powers.

Now I come to the appointment of the Governor. It is no use going into the past. As I said, the Governor's post is not just an ornamental figure-head. He is not an ornamental figure-head. He has got to discharge very difficult and delicate duties and responsibilities at times, and more particularly now with the changed circumstances. We must have as Governors persons who have maturity and experience, both of men and materials, who are delightful persons who will be able to carry the people with them, who will be able to carry the Ministry with them, who are tactful. But the appointment will have to be made by the President. There is not the least doubt about that.

SHRI P. N. SAPRU : And they must be civil servants?

SHRI HARISH CHANDRA MA-
THUR : I have no hiatus for government servants. I have none for High Court Judges, nor for any other persons. But these are the necessary qualities. There may be government servants who have got such qualities.

[Shri Harish Chandra Mathur.]

May be they are rare, may be they are difficult to find. But it is necessary to have somebody who has got public background. That is very very important, as a matter of fact. It is not necessary for me to say all that now. I will also submit, Madam, that it is correct in spite of the fact that there is nothing in the Constitution which demands that the Chief Minister of a particular State should be consulted. It is a very healthy convention which has been established but let us remember here that this healthy convention should not be carried to a point where the very purpose of the appointment of the Governor is defeated. If the Governor becomes dependant on the goodwill of the Chief Minister, it is not the correct thing to do because as I have submitted earlier he has got to exercise his discretion where sometimes it may absolutely go against the functioning of the State Government. Of course he must be consulted and it will make a happy going if they hit well and so far as is possible efforts must be made to consult him. Now I do not know about Bihar very much but so far as I understand the consultation was there but even if the consultation is there, consent, is not necessary. As I submitted we must try to do this; it is helpful to the Governor also; it is helpful to the Central Government also that they must send the Governor to a place where he is acceptable. I am not going into the details at this stage; it is for the Home Minister to say. But I understand that even in the case of Bihar an extension for six months was granted to the present Governor at the request of the State Government. I think the Home Minister has been rather indulgent; if he could be accused of anything, he could be accused of indulgence. And I would submit here, while I am talking about the appointment of the Governors, their tenures and their conditions of service, that extensions should not be given at all. You have to think about the appointment of Governors much earlier and there should be no extensions and certainly no extension on the recommendation of A, B or C because it takes away from the sanctity of that office. I would also submit that even if a man

is appointed from any Party it is much better in the changed circumstances that he resigns from the political party to which he belongs, that he does not remain a member of the particular party while in office and it would be better that even after his tenure of office as Governor he does not revert to any political party. That would add to his respect and objectivity.

Having said this about the appointment of Governor and his discretionary powers I would now like to come to the situation in West Bengal. It has been mentioned that there has been a conspiracy between the Governor and the Central Government to topple the Government of West Bengal and that is why all this has happened. Now, as a matter of fact I wrote to my friend, the Home Minister a letter to which I never received a reply and I never pressed for it because possibly it was a delicate matter. I read the statement of the Chief Minister of West Bengal; I have got it before me and the headline says that a political group has asked China to help the State for an armed revolt. This is the Chief Minister of a State making a statement, and he says that a section of a political party is involved in this thing. Not only that; he goes further and makes many more damaging statements. I would say that it would help us to clear our minds if the hon. Home Minister tells us what note he has taken of this statement. The Home Minister really owes an explanation to this House and to the country; he should tell us what note he has taken of this statement of the Chief Minister of a State. My friends in the Jana Sangh here are saying that the Ministry should not be dismissed but I read in the paper that the leader of that party.

SHRI SUNDAR SINGH BHANDARI: Not on the ground of majority or minority; that was my contention. You should not mix up issues.

SHRI HARISH CHANDRA MATHUR: I understand that many of the constituent parties have made public speeches demanding their dismissal but they are saying something else here.

SHRI SUNDAR SINGH BHANDARI: You don't act in the right time; you can't.

SHRI HARISH CHANDRA MATHUR: So the point is that we have been too indulgent. And that is my complaint also.

SHRI SUNDAR SINGH BHANDARI: If you do things at the wrong time nobody can justify that.

SHRI HARISH CHANDRA MATHUR: He has been more restrained; he has been more dignified. That is the accusation against the Home Minister. I would go further. The statement of the Chief Minister is extremely damaging and as I submitted earlier, the Home Minister owes an explanation to this House and to the country. We cannot permit such things to happen. I understand a report has appeared only two days back—from the papers that there had been a meeting for seven days and they have come to certain conclusion that some of the constituents of the present Ministry must form a third bloc. And what is the purpose of the third bloc? The purpose is to have militant bases in rural areas and these militant bases from the rural areas should march and encircle the cities. I want the Home Minister to explain this. 'Patriot' is one of those daily papers which has gone all out to support this Ministry in West Bengal? I would invite the attention of the Home Minister to a leading article in this 'Patriot' which has appeared only the day before which says how this particular lobby from the Communist areas has systematically managed to engineer the toppling of sovereign Governments in various sovereign States.

SHRI A. D. MANI: What does that article actually say? We would like to know.

SHRI HARISH CHANDRA MATHUR: Well, this article is by an Observer. It reads: Peking-backed plots in many countries. And it goes and gives details. I have not got the time. Here is this article in which they have given all the details, the names

and everything, they have said what has happened in various countries, what sabotaging efforts had been made, what militant steps had been taken to pull down the Governments of countries. Do I take it that India is a country with which China is more friendly than with these countries? Certainly, India is a victim of aggression by China. They have evil designs on us and they have been talking all the time of supporting certain sections, agitations as in Naxalbari and other activities in other places. And still my friends want to have sympathy with them. It is really a matter of obligation and responsibility for the members of the constituent parties of this Ministry in West Bengal to come out in the national interests and see that this Ministry is pulled down. Now, what has the Governor done? The poor Governor has advised them to call a meeting. He has not asked for any severe action against such things. He merely says: Please convene the Assembly. And he has every right to advise them. Of course I will concede that the Governor has no right to summon the Assembly; I can understand that he has no right to summon the Assembly but he has every right to advise the Ministry to summon the Assembly and if the Ministry is not taking that advice, certainly it has to suffer the consequences.

Now what happened in Madhya Pradesh? My friend Mr. Banka Behary Das was the first to speak today and I will only quote from his own speech which he made here on the floor of this House about Madhya Pradesh on 24th July 1967. He said then:

"Here I want to say that under the Constitution of this country, though the President has no discretionary power, the Governor has the discretionary power and that discretionary power is to be utilised to see that the Constitution is safeguarded. If the Constitution is to be protected, it will be protected if the Governor tries to see that an alternative Ministry comes into being.

SHRI BANKA BEHARY DAS : The Constitution has to be protected in a constitutional manner, not by subverting the very Constitution. It is a fantastic idea.

(Interruptions)

SHRI HARISH CHANDRA MATHUR : What was the position there? What was required in Madhya Pradesh was that the Assembly should be summoned quickly. And as a matter of fact the Governor was spared of that unfortunate duty which the Governor of Bengal has got to do now, because there the Congress was in power and the Congress exercised its healthy influence to see that the Assembly was summoned within a week's time. And the Minister had to go out. (Interruptions). Similarly, Mr. Misra could have said that he will ask the Assembly to meet after six months. He could have said that but it is common knowledge that no such thing happened. It is no use concealing facts. We all know that the Working Committee passed a Resolution and all credit to the Working Committee that they wanted that the Assembly must be summoned within a week's time. There was no question of asking for even ten days, no question of advancing the date but they said that it should be summoned within a week's time and no mid-term elections if there is a possibility of forming a Ministry from outside and we all stood for that.

SHRI R. S. KHANDEKAR (Madhya Pradesh) : In Madhya Pradesh the position was that the Budget had to be passed and that was why the Assembly was summoned; otherwise the Assembly would not have been summoned.

SHRI HARISH CHANDRA MATHUR : But what are the facts? I say the same position could have been created in Haryana and Madhya Pradesh but the people there had the decency, the political integrity; they understood the constitutional duty and they gracefully walked out and permitted other people to form Ministries. (Interruptions). But what is all this

nonsense happening here? These are values which have got to be respected, which have got to be cherished. Our country is respected only because of its democratic values. And if we are undermining the democratic values, we are making a laughing stock of the country. Much more is at stake and, therefore, I say that this position we must take full note of. (Interruptions). I am prepared to answer every single question if Madam Deputy Chairman gives me time. What is undemocratic about it? Democracy is to obey the Chair. I know it is the tradition in Bengal where one of the Members said : "I am defeated, but I am going to sit in the Chair. I am going to hold both the arms of the Chair."

This is their democracy and this is their value of democracy. I do repeat it. Within six months' time you have got so much enamoured of power. After all the Congress has liquidated itself after twenty years in some places, but you are liquidating yourself in six months' time.

AN HON. MEMBER : That is their political integrity.

THE DEPUTY CHAIRMAN : Please wind up.

SHRI BANKA BEHARY DAS : What do you think will happen between now and the 18th December? You want to come to power through the backdoor. Can you not wait for some time?

SHRI HARISH CHANDRA MATHUR : I am prepared to answer any question.

(Interruptions)

SHRI CHANDRA SHEKHAR : You are pleading all wrong causes. You are not ashamed of it. For one seat you have forgotten all your political honesty.

(Interruptions)

THE DEPUTY CHAIRMAN : Order, order.

SHRI CHANDRA SHEKHAR : For one seat in the Cabinet I am sorry that members of the Praja Socialist Party are pleading undemocratic things

in this House. It is a shame for the Party.

SHRI BANKA BEHARY DAS : Wait till the 18th December.

SHRI NIREN GHOSH (West Bengal): Mr. Chandra Shekhar has left the PSP and has gone there.

(Interruptions)

THE DEPUTY CHAIRMAN : Please wind up.

SHRI HARISH CHANDRA MATHUR : I am finishing in another two minutes. I should not take much more time of the House.

SHRI A. P. CHATTERJEE (West Bengal) : He has been talking about decency for about half an hour. Will he now come to his point?

SHRI CHANDRA SHEKHAR : We do not expect any from you.

SHRI NIREN GHOSH : All the indecencies are reserved for you.

(Interruptions)

SHRI HARISH CHANDRA MATHUR : Madam Deputy Chairman, Mr. Mani made a great point and while he was talking about the appointment of Governors he quoted Australia. Let us not forget that Australia is a sovereign country. We are not even a federal structure. These are not sovereign States. You compare us to Australia. After that I ask : Where we are going to?

SHRI P. N. SAPRU : I want to understand it. Is it Mr. Mathur's great contribution to political theory that India is not a sovereign country?

SHRI HARISH CHANDRA MATHUR : India is a sovereign country, but not Bengal. Bengal is not a sovereign country. That is my view.

SHRI P. N. SAPRU : Bengal is sovereign within its limits.

THE DEPUTY CHAIRMAN : Please wind up.

SHRI HARISH CHANDRA MATHUR : Though U.P. has given us three Prime Ministers, do you call U.P.

a sovereign State? My friend there wanted it to be treated in line with Australia which is a sovereign country. I say we are not even a federal structure. We have a federal structure for certain purposes, but the important ingredients of a federation are not there. Let us think of this great country and the unity of this country. Let us not think only in terms of the Congress. This country is respected only for the great democratic values which we have cherished. Let us not in our excitement and for our party factions do anything which would demolish those great values. The image of this great country is as much the concern of myself as the concern of any other friend sitting on that side. That should be our dominant consideration. What we are discussing today are only the deeper values of democracy, the constitutional propriety and the administrative discretions. I definitely feel that if at all the Government of India can be accused, as I have said, it can be only accused of indulgence and of showing too much restraint.

श्री राजनारायण (उत्तर प्रदेश) : माननीया, म माथुर साहब को बहुत ही ध्यान से सुन रहा था और समझता था कि इनके भाषण को सुनने के बाद शायद कुछ हमको अपने दिमाग में तब्दीली करनी पड़े।

श्री हरीशचंद्र माथुर : राजनारायण जी, आपको कोट करना भूल गया, वह भी मैं लाया था।

श्री राजनारायण : आधा घंटा से जादा बोले।

उपसभापति : आधे घंटे से ज्यादा नहीं बोले। आपको भी 20 मिनट मिलेंगे।

श्री राजनारायण : उन्होंने 25 मिनट पर शुरू किया। लेकिन मैंने देखा कि उन्होंने कोई प्वाइंट नहीं दिया। हमारी तरफ एक कहावत है कि अटके पहाड़ और फोड़े घर की सील, पहाड़ से अटके तो घर की सील मत फोड़। पश्चिमी बंगाल की सरकार

[श्री राजनारायण]

कैसी है, वहाँ के मुख्य मंत्री कैसे हैं इस समय यहाँ इसकी चर्चा नहीं है, इस समय चर्चा का विषय सीधे सीधे है राज्यपालों की भूमिका, शक्तियों, कृत्यों तथा नियुक्ति के तरीके के बारे में विशेषतः बिहार और पश्चिमी बंगाल की बातों को ले कर, यह विषय है और वह चले गया वहाँ के मुख्य मंत्री की तमाम बातों पर। मैं पहले ही साफ कह दूँ कि पश्चिमी बंगाल की सरकार जिस ढंग से कार्य कर रही है उससे मैं संतुष्ट नहीं हूँ, बहुत साफ कह देना चाहता हूँ। मैं इसको भी साफ कर दूँ कि वहाँ के मुख्य मंत्री का जो बयान हुआ उस बयान के बाद मुख्य मंत्री का ऐसे लोगों के साथ काम करना शोभनीय नहीं था और न राष्ट्र के हित में उचित था। अगर वह अपने बयान के प्रति ईमानदार है तो मैं बहुत ही सफाई के साथ कहना चाहूँगा। आप धैर्य से, शान्ति से सुनिये। जितनी माथुर साहब को वहाँ के मुख्य मंत्री की जानकारी हो उससे ज्यादा हमको जानकारी है, क्योंकि अक्सर दस पाँच दिन के बाद उनसे, आध घंटे, एक घंटे बातचीत हो जाती है। यहाँ तक मैं कहूँगा कि अन्य राज्यों में गैर-कांग्रेसी सरकारों ने लोक-कल्याण के जो कार्य किये हैं उनसे तुलना अगर की जाय तो पश्चिमी बंगाल में नहीं के बराबर काम हुआ है, यह भी मैं बिल्कुल सफाई के साथ कहना चाहूँगा। देखा जाय तो चाहे कृषि सुधार के लिये कोई काम हुआ हो, किसानों के हित के लिये कोई काम हुआ हो, मजदूरों के हित के लिये कोई काम हुआ हो तो नहीं के बराबर पाया जायगा मगर सवाल दूसरा है और माथुर साहब जवाब दे रहे हैं दूसरा। माननीय घर मंत्री इस समय चले जा रहे हैं ...

उपसभापति : वापस आयेंगे।

श्री राजनारायण : आयेंगे क्यों नहीं, उम्र काफी है, कुछ प्राकृतिक आवश्यकता हो सकती है। तो अब सवाल यह है कि सिद्धान्त बिल्कुल स्पष्ट है; हमारा बहुत सा

बोझा तो कौल साहब ने हल्का कर दिया। धारा 164(2) को पढ़ा जाय। मंत्रि-परिषद् राज्य के विधान सभा के प्रति सामूहिक रूप से उत्तरदायी होगा। राज्य के विधान सभा के प्रति सामूहिक रूप से उत्तरदायी 6 P. M.

है मंत्रि-परिषद् राज्यपाल नहीं। अगर इसके पहले पढ़ा जाय तो मुख्य मंत्री की नियुक्ति राज्यपाल करेगा तथा अन्य मंत्रियों की नियुक्ति राज्यपाल मुख्य मंत्री की मंत्रणा से करेगा तथा राज्यपाल के प्रसाद पर्यन्त अपना पद धारण करेंगे। हमारे मित्र माथुर साहब ने मंत्री और मंत्रि-परिषद् दोनों को एक कर दिया है। मंत्री और मंत्रि-परिषद् एक नहीं है। मंत्री तो राज्यपाल के प्रसाद पर्यन्त रहेगा मगर मंत्रि-परिषद् नहीं। इसलिये मैं चाहूँगा, जो एक दोष रह गया था कि श्री माथुर के तर्कों में उस दोष का हृदयंगम करें कि मंत्रि-परिषद् को राज्यपाल कभी हटा नहीं सकता, भंग कर ही नहीं सकता। सोधा-सादा इसमें लिखा हुआ है कि राज्य विधान सभा के प्रति संयुक्त रूप से जिम्मेदारी मंत्रि-परिषद् को है। अब सवाल यह आ गया कि आखमिचौनी हो रही है। कहां नक्सलबाड़ी, कहां खारी बाड़ी, कहां फाँसी देवा और कहां मुखर्जी साहब। इन सब को मिलाकर माथुर साहब ने एक ऐसा समां बांधने की कोशिश की कि जो कुछ भी कुकर्म केन्द्र कर रहा है उन कुकर्मों पर परदा डाला जाय। तो कुकर्मों पर परदा नहीं पड़ेगा, मामला साफ दूध का दूध पानी का पानी हो जायगा। मैं बिल्कुल निश्चित मत का हूँ कि राज्यपाल चाहे वह धर्मवीर हों, चाहे अधर्मवीर हो, वह कतई मंत्रि-परिषद् को कह नहीं सकते कि तुम फलां तारीख को विधान सभा बुलाओ और अगर मंत्रि-परिषद् न बुलाए तो वह उसको हटा दे, या उसका कारण बना कर केन्द्र को कहें, राष्ट्रपति को कहे कि चूँकि वहाँ की सरकार ने हमारी बात नहीं मानी इसलिये वहाँ पर राष्ट्रपति का शासन लागू कर दिया जाय। यह काम

अगर राज्यपाल करेंगे तो बहुत ही अनर्थ होगा, इससे संविधान की हत्या होगी, इससे जनतंत्रीय मर्यादा भंग होगी ।

एक बात मैं और कहना चाहता हूँ, माथुर साहब के तर्कों को सुनने के बाद । क्या यह फेडरल स्टेट नहीं, सावरन स्टेट नहीं, तो क्या राज्य केंद्र का उपनिवेश है ।

श्री शीलभद्र याजी : उपनिवेश नहीं है राज्य है ।

श्री राजनारायण : हाँ तो इसमें भी समझ लें माथुर साहब कि केन्द्र का उपनिवेश राज्य नहीं है। केन्द्र जिस ढंग से चाहे राज्य को संचालित करे, यह अनर्थ न ही होगा न होने दिया जायेगा । सीधी-सादी बात है ।

अभी मैं 15 तारीख को पटना में था, अंग्रेजी हटाओ सम्मेलन के सिलसिले में । यहां पर लोक सभा में घर मंत्री का जो बयान हुआ कानूनगो साहब को लेकर, उसके बारे में समाचारपत्रों ने मेरी राय जाननी चाही थी । बिल्कुल इस मामले को इस तरह समझ लेना चाहिये कि अगर इस देश में तूफान बरपा करना चाहते हैं घर मंत्री तो जरा कानूनगो साहब को भेज दें, हमें कोई एतराज नहीं है, इतना ज़बर्दस्त उत्पात होगा कि देखियेगा । यह कोई खिलवाड़ नहीं है । अब घर मंत्री ने लोक सभा में जो बयान दिया है, उनके बयान से यह चीज सत्य हो गई कि केन्द्र राज्यपालों की नियुक्ति में राज्य सरकार की सलाह लेता रहा है और उसी के पृष्ठपोषण के लिये घर मंत्री ने यह कहा कि उन्होंने वहां के मुख्य मंत्री से सलाह की और उन्होंने कानूनगो की नियुक्ति का समर्थन किया । मैं अपनी निजी जानकारी की बुनियाद पर कहना चाहूंगा कि वहां का मंत्री-परिषद्, वहां की कैबिनेट, पूर्णरूपेण कानूनगो की नियुक्ति के विरुद्ध है । कैबिनेट के रिजोल्यूशन की जहां तक मुझे जानकारी है, मुझे 16 तारीख को भी बताया गया,

दिखाया गया, वहां की कैबिनेट का सर्व-सम्मति से फंसला है कि यहां पर कानूनगो साहब को न भेजो । यह सही है कि वे लोग चाहते थे कि आयगर साहब के कार्य-काल को कुछ समय के लिए और बढ़ा दिया जाय । अगर वहां की सरकार आयगर साहब के काम को देखकर प्रसन्न है और उसको हितकर समझती है तो मैं नहीं समझता उसमें कोई ज्यादाती की या किसी अधिकार का अपहरण किया यह सलाह देकर कि उनको कुछ समय तक और रहने दिया जाय ।

श्री शीलभद्र याजी : आप तो लीज दिये हुए हैं राज करने की ।

श्री राजनारायण : देखिये लीज की बात शीलभद्र जी न करे । मैं सफाई से बता दू जो कुछ हो रहा है । आखिर यह सब परेशानी क्यों है ? परेशानी मैं सीधे सीधे उन लोगों को भी कहना चाहता हूँ जो विरोधी पक्ष है कि यह रुदन क्यों है ? बंगाल की सरकार को केन्द्र की कांग्रेस सरकार नहीं हटा सकती, बिहार की सरकार को केन्द्र की कांग्रेस की सरकार नहीं हटा सकती, उत्तर प्रदेश की सरकार को केन्द्र की कांग्रेस सरकार नहीं हटा सकती । जहाँ जो ग़ैर कांग्रेसी सरकारें हैं उनको केन्द्र की कांग्रेस सरकार नहीं हटा सकती । अगर उसको कोई हटा रहा है तो यही विरोधी पक्ष के लोग और दल हटा रहे हैं । क्योंकि केन्द्र में कांग्रेस की सरकार रहे और राज्यों में ग़ैर-कांग्रेसी सरकार रहे, तो ऐसी मर्यादा-विहीन केन्द्र की कांग्रेसी सरकार उनको बर्दाश्त करेगी क्या ? एक न एक बहाना ढूँढेगी, एक न एक तरीका निकालेगी, इसी-लिये अगर ग़ैर-कांग्रेसी सरकारों को राज्यों में विरोधी पक्ष रहने देना चाहते हैं तो उनसे नफ़रत के साथ हमारा निवेदन है कि केन्द्र की कांग्रेस सरकार को अविलम्ब हटाए । जब तक केन्द्र की कांग्रेस सरकार नहीं हटाते तब तक इस तरह का तफ़ान उठता रहेगा

[श्री. राजनारायण]

और इसका मुकाबला एक न एक प्रकार से होता रहेगा। मुझे बिहार की जानकारी है, अगर बिहार में कानूनगो साहब जायेंगे तो होगा क्या? मैं समझता हूँ, उस समय पटने में न मालूम कितने नरमुंड होंगे, कितने लाख लोग काले झंडे से उनका स्वागत करने को तैयार हैं . . .

श्री शीलभद्र याजी : धमकी देने के लिये।

श्री राजनारायण : धमकी नहीं है। चौव्हाण साहब अगर यह चाहे कि यह मिलिटरी की ताकत से, अनधिकृत तरीके से, गैर वाजिब ढंग से किसी को वह वहाँ पर लाद दें तो वह जमाना लद गया। इसलिये माननीया, मैं बहुत ही अदब के साथ कहना चाहता हूँ, बिहार में भी आग से खेला न जाय। धर्मवीर साहब सलाह दे दें और वहाँ पर बंगाल में सरकार भंग कर दी जाये, राष्ट्रपति का शासन लागू कर दिया जायेगा तो होगा यही कि दस बीस हजार लोग खत्म हो जायेंगे . . .

श्री शीलभद्र याजी : होने दीजिए।

श्री राजनारायण : हो जायेंगे न, यही तो होगा? आप अपनी सेना को वहाँ ले जा कर गोली चलवायेंगे, सरकार गोली चलायेगी। जनता मुकाबला करेगी। वहाँ का मुकाबला वहाँ बढ़ेगा, यहाँ का मुकाबला यहाँ होगा। तो अनावश्यक ढंग से कहीं इधर उधर जाने की जरूरत नहीं है। हाँ, माननीय मंत्री जी को अगर संविधान की जानकारी है तो संविधान में बहुत से मार्ग हैं जिसका अवलम्बन उनको करना चाहिए। उसका सुझाव देना हमारा कर्तव्य नहीं है इसलिए हम उसका सुझाव नहीं दगे। हमारा खाली इतना ही कहना है घर मंत्री जी से, कांग्रेस की सरकार से, कि जनतंत्र के नाम पर, संविधान के नाम पर, देश में शांति और सुरक्षा के नाम पर, कि हरगिज हरगिज कोई ऐसा काम न करें जिससे आज जनतंत्रीय प्रथा प्रणाली और व्यवस्था को खतरा

पहुँचे। माननीया, हमारे माथुर साहब ने नक्सलबाड़ी का वर्णन किया। मैं आपके जरिये उनसे जानना चाहता हूँ कि नक्सलबाड़ी में जाने की कृपा की है क्या उन्होंने?

श्री हरीश चन्द्र माथुर : आप तो एक हफ्ता भर रह कर आए हैं।

श्री राजनारायण : नक्सलबाड़ी भी, खारी बाड़ी भी, फाँसी देवा भी होकर आया हूँ। मगर होकर आने के मानी क्या है। सीधी सीधी बात है। आज अगर एक महीना तक वहाँ पर रह जाय पश्चिमी बंगाल की वर्तमान सरकार तो उससे चीन नहीं आयेगा, चीन अगर आयेगा तो कांग्रेस के कूड़े से। कांग्रेस का कूड़ा अगर बढ़ जायेगा तो चीन जरूर आ जायेगा, इसलिये मैं आज देश की जनता को, देश के हित को देखकर इस कांग्रेस के कूड़े को साफ करके सही करना चाहता हूँ।

एक माननीय सदस्य : कूड़ा माने ?

श्री राजनारायण : कूड़ा माने झाड़ खजाड़ क्योंकि यह जो चीनी कम्युनिस्ट कीड़ है यह कांग्रेस के कूड़े से पैदा होता है। अनावश्यक ढंग पर यहाँ लेफ्ट कम्युनिस्टों को परेशान किया जा रहा है, बिचारे लेफ्ट कम्युनिस्ट थोड़ा बढ़े हुए हैं, उनमें कई स्तर की सौमाएँ खींच रहे हैं, रेखाएँ बिच रहे हैं। वे मामला अपने में नहीं निपटा रहे हैं। सीधी सीधी बात करो। सुरसंड में क्या हुआ? सीधी सीधी बात करो कि काश्मीर में क्या हुआ। सीधी सीधी बात करो की रांची में क्या हुआ। सीधी सीधी बात करो की उत्तर प्रदेश में क्या हो रहा है। क्या माथुर साहब अब भी उसी पुराने जमाने को देख रहे हैं? चन्द पूंजीपतियों के नोटों को लेकर अब भी विथकोंधा को खरीदकर इस समय पुनः गर कांग्रेसी सरकारों को गिराया जा रहा है और वहाँ पर कांग्रेस की सरकारों

को बनवाया जा रहा है। क्या चीन का डर इससे रुकनेवाला है ?

THE DEPUTY CHAIRMAN : Please wind up.

श्री राजनारायण : अभी तो हम केवल 10 ही मिनट बोले हैं। अगर आप कहती हैं कि हम बैठ जायें तो हम नहीं बोलेंगे।

उपसभापति : यह बात नहीं है। दूसरे भी बोलने वाले हैं और आपने 15 मिनट से ज्यादा ले लिये हैं। अब आप जल्दी समाप्त कीजिये।

श्री राजनारायण : आपने माथुर साहब को 35 मिनट दिये। तो मैं आपको सीधी सीधी बात बतला रहा हूँ। माथुर साहब के दिमाग में एक खतरा है और वह खतरा जैनुइन है कि देश की सीमाओं की सुरक्षा होनी चाहिए। यह बात माथुर साहब ने कही। मैं यह जानना चाहूंगा कि क्या घर मंत्री जी ने श्री अजय मुकर्जी साहब से इस बारे में एक बार भी जवाब तलब किया कि तुम्हारे पास वह कौन सी पार्टी है जो चीन से सांठ-गांठ कर रही है भारत पर हमला करने के लिए ?

श्री हरीश चन्द्र माथुर : आपने सुना नहीं, मैंने यह सवाल . . .

श्री राजनारायण : अगर उन्होंने नहीं पूछा तो दोषी कौन है ? दोषी कौन है ? दोषी कांग्रेस सरकार है, उसको हटाओ, चहवाण को हटाओ, श्रीमती इंदिरा गांधी को हटाओ। क्या माथुर साहब को इस बात की जानकारी है कि अजय मुकर्जी को दिल्ली बुलाया गया था और उनको कांग्रेस की ओर से मुख्य मंत्री पद का आफर दिया गया था ? श्री माथुर साहब को ठीक से बातों की जानकारी करके बोलना चाहिये। अगर अजय मुकर्जी कांग्रेस के आफर को मान लेते और कांग्रेस की सहायता से मुख्य मंत्री के पद का भार सम्हालते तो मंत्रित्व करते, तब तक उनको नजरों में कोई दोष नहीं था।

मगर जब अजय मुकर्जी ने पीड़ित जनता द्वारा चुनी हुई प्रतिनिधि सरकार तथा बहुमतवाणी सरकार के शासन का भार उठाया, तो अजय मुकर्जी उनकी दृष्टि में दोषी बन गये। इसलिए सीधे सीधे मैं यह कहना चाहूंगा कि सरकार यह समझती है कि गैर-कांग्रेसी सरकार की जगहों पर कांग्रेस सरकार आये और उसी के लिये इस तरह का वातावरण बनाया जा रहा है। तो मैं यह कहना चाहता हूँ कि इस तरह का वातावरण संविधान की हत्या करके नहीं बनाया जाना चाहिए। वातावरण बनाने के और भी तरीके हैं और उन रास्तों को अख्तियार किया जा सकता है। इस समय जो तीन चार राज्य गैर-कांग्रेसी सरकार के हैं उनमें इस तरह की छीछलेदार पैदा हो गई है। हम चाहेंगे कि धर्मवीर को वहाँ से बुलाया जाय क्योंकि धर्मवीर में राज्यपाल की क्षमता तहीं है, योग्यता नहीं है क्योंकि उसने सारे इश्यू को बंगल कर दिया है।

माननीया, मैं अपनी जानकारी देना चाहता हूँ कि मैं बंगाल के लोगों से मिला और उनसे बातें कीं। हम भी चाहते थे कि सेशन को जल्दी बुलाया जाय। हम चाहते थे कि जब मसला खड़ा हो गया है तो अजय मुकर्जी इस बारे में अगुवाई करे और जल्दी सेशन को बुलाये। अगर धर्मवीर ने हस्तक्षेप न किया होता तो 13 तारीख से पहले भी अधिवेशन को बुलाया जा सकता था। मगर चूंकि अब श्री धर्मवीर ने अनुचित ढंग से हस्तक्षेप किया है, उनको केन्द्र तथा कांग्रेस सरकार ने अनुचित सलाह दी है जिसके कारण इस तरह का वातावरण पैदा हो गया है। केन्द्र और कांग्रेस सरकार के मंत्रियों के दिमाग में ख्वामखाह एक गलत फहमी पैदा हो गई है कि उनको अधिकार है और उनको सलाह दी है कि मुख्य मंत्री को उनके अधिकारों की मानना पड़ेगा। संविधान के संबंध में घर

[श्री राजनारायण]

मंत्री जी को जिन दूसरे लोगों ने इस तरह की सलाह दी है वह गलत है और यह जो सारे का सारा दोष ओर खराबी वहां पर पैदा हो गई है उसकी जिम्मेदारी धर्मवीर पर है।

THE DEPUTY CHAIRMAN : You have taken 20 minutes and still want to speak.

श्री राजनारायण : इसीलिए मैंने पहले ही कह दिया था कि अगर आप टोकेंगे तो हम बैठ जायेंगे। आज की जो स्थिति है, उसके संबंध में मैं नम्र निवेदन करना चाहता हूँ कि पश्चिमी बंगाल से धर्मवीर को बला लिया जाना चाहिये क्योंकि वहाँ की स्थिति खराब हो गई है और वहाँ कोई दूसरा गवर्नर भेजा जाय जो जन-मानस के साथ मेल खाये। इस तरह का गवर्नर केवल नौकरशाही के तपाक में न रहे और नौकरशाही के तपाक में बोलनेवाला राज्यपाल आज के राज्य के प्रशासन और शासन को चौपट कर देगा।

मैं आप से साफ कहना चाहूँगा कि पश्चिमी बंगाल सरकार ने जो कदम उठाया है, मैं उसके साथ हूँ। अगर राज्यपाल के सामने पश्चिमी बंगाल घुटना टेक देगा तो उसका नतीजा क्या होगा, माननीया ? इसके बाद दूसरी आफत बिहार पर आयेगी, उत्तर प्रदेश पर आयेगी, हरियाणा पर आयेगी, मध्य प्रदेश पर आयेगी और इस तरह से यह सिलसिला लागू हो जायेगा। इसलिये संविधान की हत्या करने वाले कदम जो उठाये जाने के इशारे हैं, उसका जमकर विरोध होगा और इतना जबर्दस्त विरोध होगा कि अगर सरकार अनुचित कदम उठाने से बाज नहीं आई तो पता नहीं क्या अनर्थकारी परिणाम होंगे और उसकी सारी जिम्मेदारी घरमंत्री पर होगी। सलिये समय रहते मैं चतावनी देना चाहता हूँ कि सरकार बुद्धि से काम ले और अबद्धिकारी कदम न उठाये।

THE DEPUTY CHAIRMAN : Mr. Niren Ghosh.

SHRI B. D. KHOBARAGADE : Madam, how long are we sitting ?

THE DEPUTY CHAIRMAN : You want the time to be extended ? Even then, everybody is not going to be accommodated.

SHRI B. D. KHOBARAGADE : Let us sit tomorrow.

THE DEPUTY CHAIRMAN : No, we cannot. We have to finish it today.

SHRI B. D. KHOBARAGADE : There is no provision in the rules that it should be completed in one day.

THE DEPUTY CHAIRMAN : I know the rules. Mr. Niren Ghosh.

SHRI B. D. KHOBARAGADE : There are still four or five Members. I know the rule . . .

THE DEPUTY CHAIRMAN : Mr. Niren Ghosh.

SHRI NIREN GHOSH : Madam Deputy Chairman, we have been listening to sermons from Judases who are banded together to betray the Constitution which they themselves framed. Well, they are finding it inconvenient. I do not propose to reply to them exhaustively. But something I will say in my stride which will go as a reply.

Firstly, I wish to draw the attention of the House and of the Home Minister. Are they aware that Mr. Dharm Vira is now the most hated person in West Bengal and is looked upon as a conspiratorial agent on behalf of the Union Cabinet ? It is a sordid spectacle that things have come to such a pass.

SHRI CHANDRA SHEKHAR (Uttar Pradesh) : Madam on a point of order.

SHRI NIREN GHOSH : I do not yield.

SHRI CHANDRA SHEKHAR : I rise on a point of order. Madam, I want a ruling on the point whether this House is authorised to condemn a

Governor as the conspiratorial agent . . .

SOME HON. MEMBERS : Why not ?

(Interruptions)

SHRI CHANDRA SHEKHAR : I am on my legs. You cannot bully me. Please sit down. It is not going to have any effect upon me.

(Interruptions)

THE DEPUTY CHAIRMAN : Order, order.

SHRI CHANDRA SHEKHAR : I am not going to take any lessons from the conspiratorial sons of Stalin, if it is allowed for them to say that Mr. Dharm Vira is a conspiratorial agent of the Central Government. A Governor cannot be discussed in this manner in this House unless and until there is a motion against the Governor himself, and any action taken by the Governor can be condemned or can be discussed on a specific motion only. The motion does not indicate the action taken by Mr. Dharm Vira in the context of the West Bengal situation. So, any harsh word against Mr. Dharm Vira should be expunged from the proceedings. They can have their constitutional point of view but any personal remark against Mr. Dharm Vira should be expunged from the proceedings.

(Interruptions)

THE DEPUTY CHAIRMAN : I will not permit anything. There is no point of order. Mr. Niren Ghosh, please continue.

SHRI NIREN GHOSH : I can well understand Mr. Kamaraj conspiring to overthrow a non-Congress Government. But it is a unique spectacle when Shrimati Indira Gandhi . . .

THE DEPUTY CHAIRMAN : Come to the point, Mr. Niren Ghosh.

SHRI NIREN GHOSH : . . . Mr. Chavan and the Union Cabinet..

THE DEPUTY CHAIRMAN : You should be careful.

SHRI NIREN GHOSH : . . . through the instrumentality of the Gov-

ernor conspire to overthrow a non-Congress Government. That is certainly a unique and sordid spectacle and that is precisely what we are witnessing. Let me relate some facts.

Is it not a fact that on October 2, when Shri Ajoy Mukherjee refused to resign, for two hours the Governor insisted upon his resignation? Then, am I not correct to say that he acted on the advice of the Union Cabinet? He conspired and put pressure upon the Chief Minister to resign. What business did he have to do that, may I ask? And then may I also place this fact before this House that the Inspector-General of Police, Mr. Upanand Mukherjee, who had applied for leave preparatory to retirement, cancelled his leave, fabricated reports and gave them direct to the Chief Minister, alleging all sorts of slanderous stories. It was never placed before the Cabinet. The Cabinet did not discuss these things. My friend, Mr. H. C. Mathur, is now doling out slanders. Shri Upanand Mukherjee, everybody there knows, he is a ring leader, one of the conspirators and even Bangla Congress Minister want that at any cost he should go. It is in collusion with him that the conspiracy has been hatched. May I ask whether the Union leaders of the Union Cabinet did not put it to Mr. Ajoy Mukherjee that during October there was going to be invasion from both Pakistan and China and, therefore, he must form a non-Communist Government? Is it not a conspiracy? That is what I want to ask. And then a valiant posture is struck by our valiant Home Minister. It is easy to strike a posture of bravery when it is a question of suppressing a people. There is a provision in the Constitution that the Council of Ministers holds office during the pleasure of the Governor. Hence it is said that if the Governor is pleased, he can dismiss the Council of Ministers. Everybody, conversant with the A, B, C of the Constitution, knows that it is a formal phrase only. The Chief Minister is appointed by the Governor because he commands the majority in the Legislature. Naturally, it is written therein that he holds office at his pleasure. I do not know what

[Shri Niren Ghosh.]

was the debate in the Constituent Assembly. There were speeches for a unitary form of Government and there were speeches for a federal type of Government also. But they would go by what is written in the Constitution. The only pleasure that the Governor enjoys, apart from his role in tribal affairs, is to act upon the advice of the Council of Ministers. That is the only pleasure that he can enjoy. Anything going beyond that is to murder the Constitution, to scuttle the federal type of Constitution.

SHRI AKBAR ALI KHAN (Andhra Pradesh) : In case of breakdown.

SHRI NIREN GHOSH : What is the Assembly therefor, my dear friend? Do you think that the entire people have gone beyond the bounds of the Constitution? Let it be proved that the Assembly has gone beyond the bounds of the Constitution.

So, Madam Deputy Chairman, when Mr. Ajoy Mukherjee refused to be a party to this conspiracy, he was faced with this second conspiracy. The Constitution enjoins upon the Cabinet to allow it to summon the Assembly even in January as they were previously to do. But when the Governor expressed a doubt, they gracefully fixed the date at December 18. They were not under compulsion to summon it earlier but they agreed to do so because he had expressed a doubt.

Now Shri P. C. Ghosh submits his letter of resignation direct to the Governor and the Governor tells the Chief Minister that he has lost the confidence of the Legislature. He tells him that he does not command a majority and, therefore, he should resign. What is this? Is he playing the role of a Governor or the role of a conspirator in collusion with the Centre? That is what I ask. What business has he to tender the advice to advance the date? They were within their right to call it two months hence and they gracefully did so. But he came here and guided by the Home Ministry here that he can dismiss the Ministry, went back and tried to

bully the entire Cabinet. A question arises in respect of Bihar and West Bengal and other States too. I do not want to utter any words of threat. These threats are reserved for the Home Minister because he has uttered them, he can indulge in threats. But I pose a question on behalf of all the linguistic national groups of India, that is, Bengalis, Biharis Marathis, Punjabis, Tamils, Telugus, Oriya etc. Are they going to be ruled by the conspirators of the big capital at New Delhi? Are the peoples of India, are the national groups of India going to be trampled under the foot by the Union Cabinet and will the different national groups of India be prepared to accept such a position? Think hundred times before you act, I say. The fate of the Constitution is at stake. You are trying to oppress the people of West Bengal who, for the first time, after twenty years have begun to breathe freely to some extent. That is a fact which anybody can see for himself if he visits West Bengal. During these eight months no Congress leaders have been arrested. They have not been put in detention. They have not been shot at and killed which has been the shameless record of the Congress during these twenty years. Nothing of the kind has been done. The freedom and civil liberties have been restored in West Bengal. The Cabinet there is safeguarding them. Here the fundamental question of the unity of India arises. The federal structure of India, the Constitutional safeguards, the rights of the various national groups of India are at stake. If you want to suppress them in this high-handed manner I raise the question: Have these people not the right to rise in revolt against you as they did against the British Raj?

Why are you afraid to refer the seven points raised by the West Bengal Cabinet to the Supreme Court? Opinions are divided. Theories are divided. Members of Parliament are divided. The entire country is divided. Why do you not refer them to get an interpretation of the Constitution? Why are you fighting shy of that? You are fighting shy to refer these constitutional issues to the Supreme Court.

And you speak in Parliament that the Governor has the right to do anything he likes, that he can dismiss the Cabinet and so on. Is it not autocracy? Is it not unconstitutional? You can say that the President is not bound to act under the advice of the provincial Council of Ministers. They have made a request that under a certain article of the Constitution since there is a deep controversy, these major issues should be referred to the Supreme Court.

Why are you fighting shy of that process? It is the very court that you created, it is your court. Many times this court has given judgment in favour of the vested interests. The High Court judgment in Bengal was referred to. We hold, the people of Bengal hold, that these judgments are reactionary, retrograde and against the march of progress. These are reactionary judgments which they have given. Even then you are fighting shy of referring the matter to the Supreme Court. Why? Because you are not sure of your ground. You are not sure of the defectors—these 16 or 17 persons. Some of them have already re-defected. Therefore, you are not sure. If one month's time is taken, these defectors may not align themselves with the Congress. They may come back to the United Front. That is why you are in a hurry and you are distorting the Constitution and going in a way that the entire country and people see that you are prepared to throw this Constitution to the winds the moment you think that your vested interests are at stake. This is a funny thing. You are distorting this limited Constitution; you are trying to scuttle it; you are trying to murder the letter and spirit of the Constitution because the people have begun to utilise this very Constitution of yours in order to advance their own interests. So in order to save your vested interests, you have launched an attack upon the Constitution. It is not only against the people of Bengal, Bihar and other States. All the people of India of all the States are concerned here. Mr. C. N. Annadurai has already raised the question that only a minimum of powers should be at the Centre and all powers should be

vested in the State Government. All the national groups in India are watching keenly the situation, the steps that you take in regard to Bengal, because the rights of every people, Tamils, Biharis, Bengalis, and so on, are at stake. You think a hundred times before you take steps which go against the letter and spirit of the Constitution. And for God's sake, I repeat that the Union Cabinet, the Government at the Centre, should not conspire to topple Provincial Governments. That is not a function allotted to them in the Constitution. Let them give that job to Mr. Kamaraj or to Mr. Atulya Ghosh, who are out of the Government. They can do it. But Mr. Chavan, Mrs. Indira Gandhi and others cannot do it. They cannot let loose military. It was arranged that in half an hour, Greater Calcutta would be taken over by the Military and in two hours, the Military would go to the remotest village in Bengal. It was done by the Centre to drown the people of West Bengal in blood. With iron and blood they wanted to subjugate the people. But subjugating people by iron and blood has not paid and will not pay in future.

THE DEPUTY CHAIRMAN : Mr. Kumaran.

SHRI A. P. CHATTERJEE : Madam.

THE DEPUTY CHAIRMAN : Everybody cannot speak, only one from each party can speak. (*Interruption.*) I have called Mr. Kumaran.

SHRI A. P. CHATTERJEE : After all, we come from West Bengal.

THE DEPUTY CHAIRMAN : There are many Members from West Bengal . . . (*Interruption*) Please take your seat. This is a short-duration discussion. This cannot go on till tomorrow.

SHRI A. P. CHATTERJEE : As far as this debate is concerned, it is a debate of the utmost importance. You know, in the Lok Sabha a whole day was devoted to this affair.....

(*Interruption*)

THE DEPUTY CHAIRMAN : Mr. Kumaran.

(*Interruption*)

SHRI A. P. CHATTERJEE : A Government is not to be toppled by unconstitutional methods by conspiratorial methods..

THE DEPUTY CHAIRMAN : Mr. Chatterjee, please take your seat.

(*Interruption*)

SHRI A. P. CHATTERJEE : Will you kindly let me finish what I have to say ?

THE DEPUTY CHAIRMAN : You have said what you wanted to say. Your leader has spoken. I am calling now Mr. Kumaran... (*Interruption*) Please. I appeal to you, Mr. Chatterjee . . .

SHRI A. P. CHATTERJEE : The time given for discussion upon this point is short and, therefore, we have been saying that this discussion should be taken over tomorrow. After all, there is nothing in the rules to say that a short-duration discussion cannot be taken over till tomorrow.

THE DEPUTY CHAIRMAN : Mr. Chatterjee, Will you please take your seat? I will explain. (*Interruption*) In this House, for a short-duration discussion under Rule 176, we have come to an understanding that one Member from each party will speak. It has gone on very well up to now. Therefore, Mr. Kumaran will now speak.

SHRI A. P. CHATTERJEE : There is a motion, for example, in my name. That motion says that the whole thing should be discussed, that the situation should be taken into consideration by this House. The motion is there. With whom was this understanding reached?

THE DEPUTY CHAIRMAN : In the open House we had come to that understanding.

SHRI A. P. CHATTERJEE : The understanding was merely that you will call all the names in the list first, and then some of the names which will

come to you later. That was the understanding. The understanding was not this.

(*Interruption*)

THE DEPUTY CHAIRMAN : You take your seat.

(*Interruption*)

SHRI A. P. CHATTERJEE : Madam, this is a very serious matter. A conspiracy is afoot.

(*Interruption*)

SHRI CHANDRA SHEKHAR : On a point of order, Madam. It is a very serious matter that a Member is not submitting to the ruling of the Chair. It is indignity to the House. I would request you to name the Member because it is a question of the dignity of the House.

(*Interruption*)

THE DEPUTY CHAIRMAN : I will explain. Please take your seat. We have been having this short-duration discussion, and one Member from each party is allotted time . . .

SHRI A. P. CHATTERJEE : That was not the understanding.

THE DEPUTY CHAIRMAN : Your leader is here.

(*Interruption*)

SHRI A. P. CHATTERJEE : May I quote a precedent? When there was the Krishna water dispute motion here, you were in the Chair and you gave this ruling that as far as Andhra Pradesh, Mysore and Maharashtra Members are concerned, they will get precedence over the other Members . . .

(*Interruption*)

THE DEPUTY CHAIRMAN : Don't exhaust my patience. (*Interruption*.) I order you to take your seat or withdraw from the House. We cannot conduct business in this way. I have called Mr. Kumaran. Please take your seat.

SHRI A. P. CHATTERJEE : * * *

THE DEPUTY CHAIRMAN : You may quote anybody.

***Expunged as ordered by the Chair.

SHRI A. P. CHATTERJEE : * * *.

THE DEPUTY CHAIRMAN : Please take your seat.

SHRI A. P. CHATTERJEE : * * *.

THE DEPUTY CHAIRMAN : Will you please take your seat? Mr. Kumaran.

SHRI A. P. CHATTERJEE : * * *.

(At this stage, the Member left the House.)

SHRI CHANDRA SHEKHAR : This is too much. This cannot be tolerated. This is very unfair to the House. Madam Deputy Chairman, the hon. Member made a speech in spite of the repeated warnings of the Chair and so every word of what he said after your order should be expunged from the proceedings, because it is a question of the dignity of the House.

THE DEPUTY CHAIRMAN : Yes, I am going to do that.

SHRI NIREN GHOSH : Making a point has been done often . . .

(Interruption)

THE DEPUTY CHAIRMAN : I have been very indulgent. If I request a Member to take his seat and he does not listen to what the Chair has said and goes on, then that cannot be recorded. Mr. Kumaran.

SHRI P. K. KUMARAN : That is true, Madam . . .

THE DEPUTY CHAIRMAN . Are you speaking on this Motion, or shall I call the next Member?

SHRI P. K. KUMARAN : My request is also this, that the discussion should be extended. The discussion is of a short duration but the subject is quite a big one. That is why I requested earlier and I still request that the discussion may be carried over to tomorrow and some more time allotted.

***Expunged as ordered by the Chair.

THE DEPUTY CHAIRMAN : Then you should have asked for a full-day debate. This is only a short-duration discussion. You should have asked the Chairman to change it.

SHRI P. K. KUMARAN : Even now it is not too late to give some more time.

(Interruption)

THE DEPUTY CHAIRMAN : Your time is running out, Mr. Kumaran.

SHRI P. K. KUMARAN : Madam, the West Bengal Cabinet has decided to convene the Assembly on December 18 but the Governor appears to be anxious to see that it is convened earlier. Now I understand he is even prepared to have it on 30th November or something like that. Now the gap is 18 days. What is going to happen during these 18 days? Why is the Central Government anxious to see that it should be convened in November itself? The Prime Minister, the Home Ministry, and the entire Central Government are anxious that it should be convened in November itself. What is that auspicious day in the month of November? After all defectors are living in Calcutta; some are living in the house of Mr. P. C. Ghosh, some others in some other leaders' houses. They are not permitted to move about; they are almost captives. What is this? The anxiety of the Central Government is to see that this Government is dismissed. Why so much anxiety? New interpretations are given. It is said if the Governor is convinced by a piece of information which he gets, even though that information may be extraneous to the proceedings of the Assembly, he is entitled to use his discretion. All sorts of interpretations and meanings are being given to the word 'discretion'. Last month a big conspiracy went on. Some big Congress leader went from here to insist upon the monopolies of this country to purchase some defectors. All these monopolies are behind this. As Mr. Ghosh has stated, civil liberties are there. There was freedom for monopolists, freedom for capitalists before this Government. Now that freedom has been extended to the working class and

[Shri P. K. Kumaran]

to the people. We were talking about gheraos ; judgments have come out with regard to gheraos. There had been gheraos in West Bengal even before the present Government came but then every time a gherao took place, the owner of the factory took up the telephone and called the police to give them a beating or to shoot them. Now that does not happen. As he has mentioned, Congressmen have not been killed, they have not been arrested ; their liberty continues but the same civil liberty which they had been enjoying has been extended to the working class. That is the position. Then there is retrenchment due to recession which they themselves have created. By curtailing the plans they have almost finished the Planning Commission. Now they have created a situation in which they have to retrench the workers, and the workers naturally resist. When that is done, they want the Ministry to go. Conspiracies after conspiracies and plans after plans have been hatched and sent from Delhi. Then some important Member from the Cabinet went and convinced the Chief Minister that something is coming from China. So far nothing has come and nothing is going to come. Once they came and within 10 days they went away. I do not believe they are going to come. He has been convinced that something is going to happen and that man behaved rather foolishly and created all sorts of confusion. That having failed, Shri P. C. Ghosh resigns and he sent his resignation to the Governor. Normally he should have submitted his resignation to the Chief Minister. Even if the Governor had received the resignation, he should have forwarded it to the Chief Minister because it is the Chief Minister who is responsible to the Governor for his Cabinet. That was not done. That is indiscretion which the Governor has committed.

SHRI HARISH CHANDRA MA-THUR : Is it not a fact that the Governor consulted the Chief Minister before taking any action on the resignation ?

SHRI P. K. KUMARAN : No.

SHRI HARISH CHANDRA MA-THUR : He did. He did not take any

action on the resignation. He consulted the Chief Minister and only on the advice of the Chief Minister he accepted the resignation.

SHRI BANKA BEHARY DAS : That is correct. Mr. Ghosh sent the resignation to the Governor, not to the Chief Minister. But the other procedure has been followed.

SHRI P. K. KUMARAN : So, that is one thing. Then these people who have defected are not able to move about freely. They are still in custody or rather in illegal custody ; they are gheraoed in the houses of two or three leaders. They want the Assembly to meet earlier so that the Chief Minister does not get a sufficient majority. Now the people have changed the parties. If they have changed the parties out of conviction, why is the Government anxious to see that the Ministry there falls ? What is the harm in waiting till the 18th of December ? If the Government is going to fall, it will fall even on the 18th of December.

Then there is another thing. There is procurement going on in the countryside. In the matter of food the Central Government has been going by default to the deficit States, not only in Bengal, even in Kerala. The jotedars and the big zamindars are perturbed. They want some interruption in the procedure. So it is very urgent in the interest of the capitalists of the country, in the interest of the landlords of the country that something should happen in West Bengal, that this Government should fall, so that the procurement drive is defeated. That is why at the instance of the capitalists of the country the Central Government is hatching a conspiracy. Not only that, even during the last time they had alerted the military. Governors can use their discretion in times of emergencies. Here an emergency is sought to be created. There were reports that Gen. Manekshaw was summoned by the Governor. There were reports that military was alerted and everything was kept ready in case there is any trouble in West Bengal. Nine battalions were called and kept ready. So, a crisis is sought to be created. Where is the necessity for that ? So far there has been no unto-

ward happening except a cry from the capitalists and big factory owners "We are being gheraoed". There is retrenchment going on and the workers' bonus is not given. So they are naturally fighting. Except that I do not see anything wrong that is going on there. Of course there might have been some differences among the Cabinet which they must have aired. It is up to them to settle. There is no necessity for the Central Government to intervene. This is a Federation. There are certain rights for the State Government—not a unitary Government as such. That is the cry of every Government, from Kerala, from Mr. Annadurai from West Bengal, etc. The cry is coming 'What are your rights? That is to be defined.' Why is the Central Government fighting shy to refer the matter referred by the Cabinet to the Supreme Court? What is wrong if once for all a ruling is given on the powers and functions of the Government? Why are you anxious to keep it vague? Where is the necessity to keep it vague? Is it for interfering in such things? My argument is, you should not intervene. Let the Assembly meet on the 18th as the West Bengal Government has decided and if they do not get the majority they will resign but just now they are busy with procurement and when it is a question of food, when that is going on, why do you want to intervene? What is the anxiety? It is very difficult to understand the anxiety of the Central Government to somehow dismiss this Government. Where is the necessity, except that they are in the interests of the capitalists? There is no other reason for them and it is exactly the reason why they are resisting it. So I hope good sense will prevail and that nothing untowards will be done; otherwise, if now in the name of interpreting the Constitution democracy is murdered, democracy will be murdered once for all in this country.

AN HON. MEMBER : Everywhere.

SHRI P. K. KUMARAN : Everywhere. The history of India says that everything, every movement, not only the fight for freedom, started from

Bengal. Bengal is the place where Indian capital is concentrated. Bengal has been the place where the national consciousness was first roused and if this kind of change is to take place in Bengal, that is a foreboding for the whole of India. So I hope the Cabinet will be careful, and the Congress Party will be careful that nothing untoward is done and if to-day you cause any doing and the floods are started, it will not end with Bengal. It will spread throughout India.

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : Madam Deputy Chairman, Sir . . .

SHRI A. D. MANI : No 'Sir'.

SHRI Y. B. CHAVAN : He is always an expert in these matters. I do not mind accepting his advice. That is the only thing he knows better.

The debate has raised some facts of law, constitutional law, and some questions of facts themselves. The hon. Member who moved this motion for discussion said that he would confine himself to the constitutional aspects only which he did not do. He brought in much of the political facts. He did certainly deal with the constitutional points, I quite see. So I have had an occasion to speak on the role of the Governor before on the floor of this House and the basic thing that we stated there, I would like to say that I am consistent with that even now. The role of the Governor is the role of a Head of the State, Constitutional Head of the State. We are not taking any other position but at the same time the Governor under the Constitution, by the Constitution also, is entitled to use his discretion in certain matters. The hon. Member, Shri Kaul, who also spoke, theoretically conceded the position that under certain circumstances, the Governor has the right to dismiss a Government. That also he has conceded. (*Interruptions.*) I am speaking when he is present. Let him say 'no' and then I will certainly reconsider. He has certainly conceded the theoretical position that the Governor has the discretion to dismiss the Government under certain circumstances. What

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those circumstances can be and should be can be a matter of fact. Now what is the position here? I am not going to discuss any particular position because whatever happens in Bengal, certainly will not be under the direction of the Central Government. The Governor there will have to take his own decisions in this matter. This is a political argument that there is conspiracy between the Central Government and the Governor, etc. This is a politically motivated allegation which I repudiate. There is no question of having any conspiracy. So the difficulty is that these Governments are full of conspiracies among themselves. That is my difficulty. I cannot help that. These are the difficulties which really speaking I have repeated before and I would like to repeat again that these difficulties are arising because of certain inherent fundamental contradictions in the working of those Governments. For that they will have to find a political solution. Unnecessarily they are trying to blame the Governor, they are trying to blame the Central Government. I can read some of the articles of the Constitution but they were very extensively quoted by other Members and I do not want to take the time of the House more on this matter. The position is that under article 64, which was read by the hon. Member and on which very able comments were made by Mr. Mathur on this side that the Government will hold office during the pleasure of the Governor. Clause 2 of the same article says—that lays down the principle that collectively the Government or the Council of Ministers would be responsible to the Legislature. These are the two positions. The hon. Member who moved this motion said that there were only certain cases, in which the discretion is to be used, which are mentioned in the Constitution. Certainly these are the instances where he has to use his discretion, but there can be certain other circumstances under which he has to use his discretion. The question of appointment of a Chief Minister is a matter of his discretion, a matter on which he has to make a judgment. Naturally that judgment cannot be a whim, I know.

There is certainly political restriction on that. That is, the man, the person concerned must be in a position to hold or command a majority in the House. Not only that, he must, during his period of being the Chief Minister, naturally it is incumbent on him to continue to hold that majority in the House. That is really speaking the basic condition. The one question that the Governor should see it is his duty very rightly—and hon. Mr. Mathur quoted Dr. Ambedkar—that this is one of the fundamental duties of the Governor to see, and this is a basic condition that he has to see, is that when he has used his pleasure and appointed somebody as the Chief Minister, it is his duty to see that that person continues to hold the majority in the legislature. There is no doubt in my mind that there will have to be the supremacy of the Legislature, but are we going to take it merely as a formal supremacy of the legislature? What is the spirit behind it? The spirit behind it is this—Tremendous executive power is exercised by the Chief Minister. Really speaking, he has the entire executive power. In the name of the Governor he exercises those powers and it is a very tremendous power in his hands. Naturally the Governor has to see that the Chief Minister continues to have support in the House. Therefore if somebody says that that pleasure can be withdrawn only after the vote in the House—it should normally be done in the House, I have no doubt about it—but if you say that he can only do that after the expression of vote on the floor of the House, then I am sorry I can say that the spirit of the Constitution is missed because there can also be certain circumstances. Normally it should be done. Ordinarily it has to be done . . .

AN HON. MEMBER : It is also . . .

(Interruptions)

SHRI NIREN GHOSH : Subject to the assessment and pleasure.

SHRI Y. B. CHAVAN : I know, I am coming to that. As it is the duty of the Governor to see to the spirit of the Constitution, it is really those who are using the power under the Constitution,

it is their responsibility to see that the spirit of the Constitution is exercised. In this matter some people have said that once the man is put in power, once he is made the Chief Minister, then for six months, between the two Legislatures, which is the upper limit really speaking, and there is nothing very sacrosanct about the six months, nothing should be done.

7 P.M.

This would be misreading the Constitution. This is my own view and this is my reading of the Constitution, because a situation can arise between the two sessions of the Legislature, and in this particular case I do not want to particularly explain what the Governor can do or will do. What he can do, I can say, but I cannot say what we will do or what he should do. I am not going into that aspect in this matter, but within this period of six months certainly an extraordinary situation regarding the functioning of the Government arose, and that was in the first week of October, when the Chief Minister himself wanted to resign. He informed the Governor about it. He gave the reasons for it. He had certainly a plan. And hon. Member, Shri Mathur, has raised a very relevant point—he asked my explanation—that he made such—I should say—a very damaging statement to himself and to his Government, and not only to his Government and to himself personally, but damaging to the very security of this country. Now the Governor had to take note of this. Not only that. Then what happened? Afterwards, why the Chief Minister changed his mind, it certainly is still a drama, a story untold. But, later on, another senior Minister of the same Government resigns. Not only he himself resigns, but he resigns with other seventeen Members. Now, Madam, what is the duty and function of the Governor here? Is he merely to watch all this as a helpless spectator? What happens then? Naturally, he has to take cognizance of this new situation that has arisen in the State. And then what did he do? He did not merely say, "Well, I am the Governor. I want to exercise my discretion". No, he

discussed the matter with the Chief Minister and advised him to call the Legislature as soon as possible. The idea was that he should demonstrate to himself, to the country, to the State and to the Governor that he continues to enjoy the majority in the Legislature. And then, the Cabinet or the Chief Minister decided to advise the Governor to call the Legislature after nearly six weeks. The reason that is given is the reason of procurement, which the hon. Member mentioned. Is it selfdeception in that we are giving out this reason? But I do not want to go into that. When, Madam, a certain situation has arisen, when the Governor wanted to convince himself that the Government continues to hold a majority in the Assembly, if, really speaking, they were democratic, if really they were confident of their majority, they would have said, "Here it is. Whatever date you, Governor, suggest to us, on that date we are prepared to demonstrate the whole thing". Now I am asked, "what is going to happen within eighteen days?" May I ask the counter question, only because that question is asked of me, "What would have happened if the Legislature had been called eighteen days earlier?" Here is the question whether a Chief Minister, whom the Governor has reason to believe is heading a Ministry which has no majority in the Legislature, whether he is to be allowed to continue to exercise that tremendous executive power vested in him as the chief executive of the State. This is the basic question that will have to be asked and I think that this is purely a constitutional issue and this is a circumstance relevant to the issue. Once we accept the theory that he has the right to dismiss the Government, how can we say that these were circumstances which did not justify, or did not call upon the Governor to act if he wants to act.

SHRI NIREN GHOSH : We do not accept the right of the Governor in this respect.

Y. B. CHAVAN : You may not accept.

SHRI NIREN GHOSH : This is your interpretation.

SHRI Y. B. CHAVAN : Yes, this is my interpretation. I am not the Supreme Court here to give a judgment on the Constitution. I am giving my opinion. I am giving my interpretation. As you have given your interpretation, I am giving my interpretation. This is all that we can do here. So, Madam, I have no doubt about the basic question. The Governor is a constitutional head, but at the same time the Governor has a certain discretion to exercise in certain matters, and in what way he is to exercise his discretion, he has to make his own judgment. This is the constitutional position and this is absolutely clear to me.

SHRI CHITTA BASU : Why is it not referred to the Supreme Court ?

SHRI Y. B. CHAVAN : Why to the Supreme Court ? The matter was very carefully examined here and we have come to the conclusion that it is not advisable to refer the matter to the Supreme Court. (*Interruptions.*) As I said, once you allow this constitutional right to the Governor, then the use of the discretion depends upon the assessment that he makes of certain political factors that exist. It would not be right to drag in the Supreme Court into this.

SHRI NIREN GHOSH : Why?

SHRI Y. B. CHAVAN : In certain other matters the Supreme Court has gone into them, in which case their advice had to be asked, but in purely socio-economic matters and political matters this reference should not be made. They don't give the opinion because it is not incumbent on the Supreme Court also to give a judgment. It is just advice and in this matter also it will be just advice, which is neither binding on the Supreme Court, nor binding on the person to whom it is given. And again, Madam, the use of the discretion under the Constitution is itself not a justiciable matter. There are many other things. So, Madam, it would have been an absolutely superfluous effort, it would have been certainly a wrong thing to do. (*Interruptions.*) Therefore, Madam, we have

decided that it is not advisable, that it is not expedient to refer the matter to the Supreme Court for advice.

SHRI NIREN GHOSH : Because you are not sure of your ground.

SHRI Y. B. CHAVAN : If you are sure of the basic fact of your majority, even now you may advise the Chief Minister to call an Assembly session soon. What is the use of shouting before me? You talk in the name of the people. Some people just advise us that a number of murders will be committed. Is it an argument that only because certain numbers of murders are going to be committed, we should therefore coerce ourselves into accepting a certain position which is not constitutionally correct, which is not, politically correct? Is this the idea to run democracy in this country? (*Interruptions.*) The main question I have asked you. You have the opportunity to call the Legislature. Why are you afraid of your own legislators? Why are you afraid? You talk in terms of the supremacy of the Legislature. Here is a challenge to you. Here is an invitation to you. Here is an appeal to you to call your Legislature and take the verdict of the Legislature. Why are you not doing it? This is, really speaking, the basic thing.

SHRI NIREN GHOSH : They could have done it but for . . .

SHRI Y. B. CHAVAN : All other arguments are baseless . . . (*Interruptions*) They are political arguments. They are self-interested arguments. Therefore, I am not going . . . (*Interruptions*) Therefore my position is very clear. As far as Bengal is concerned, these are the facts and this is the constitutional position. What happens or what decision the Governor takes there is the discretion. I have no further comments to make on this particular question.

Now, Madam, coming back to Bihar, there, as I said, it is a question of merely facts. We ourselves have developed an extra-constitutional convention to consult the Chief Ministers in this matter. And why should I be

rather uncooperative with the Bihar Government? In the last six months the Government of India and the President had to appoint Governors in nearly seven non-Congress Governments. It is not for the first time that we have appointed the Governor in any non-Congress Government. Madam, I cannot discuss what advice was given or what consultation took place, because it is done in trust and confidence. Therefore, I am not going to do that, but I can tell you, Madam, that in many cases I was told that they did not want a certain type of persons or certain individuals. We conceded their desire. In the case of Bihar itself, we had the discussion, not once, but more than once. Not with myself alone, but in this matter the consultation took place with the Prime Minister even. The hon. Member thinks that I am telling a lie? Why should I tell a lie? I consider him and I claim to be a friend of Mahamaya Prasad Babu.

SHRI SUNDAR SINGH BHAN-DARI: Why should he also tell a lie?

SHRI Y. B. CHAVAN: Not at all, but where I am concerned, I am telling you the facts. Why should I tell whether others lie or not. I do not want to go on abusing anybody else. Where I am concerned, I am telling you the facts. It was not only once, but twice and thrice that the consultation took place. It was not merely with myself alone, but the consultation took place with the Prime Minister also.

And never the question was raised by the Chief Minister of suggesting another name. The only question that he raised was the continuation of the period of the present Governor there, to which we conceded. (*Interruption*) There is no question of acceptance, there was no objection to it.

SHRI BANKA BEHARY DAS: He may not suggest another name. But did he accept it?

SHRI Y. B. CHAVAN: You see, that is not the question. You see the process. Man to man I tell you. What

is the process of consultation? The Central Government on behalf of the President suggests a name. If there is no objection then the person whose name has been recommended has to be consulted, because you cannot appoint a man as Governor without consulting him. In this matter naturally when we put this name to them the Chief Minister said, "Certainly he is a good person. I know him. He is an old friend of mine" and I think that is enough. And this happened twice, thrice. And then we naturally consulted Mr. Kanungo and Mr. Kanungo consented to it. And then there was the question of the announcement of the date of his joining. They wanted further time, six months like this. When they wanted a further period up to March, I had to say I cannot agree myself. Certainly, they met me and made this request and I said, "I cannot agree to this. I must consult my other colleagues". And later on I told him that I cannot accept it. I say this not with a view to run down anybody. I know Mahamaya Babu. He is a gentleman. He is a friendly person. But unfortunately he has to do these things because of certain political difficulties. At one stage he told me, "You please talk to my other colleagues also". I am telling you the facts. And twice I talked to five or six Ministers simultaneously, coming in a group. What more care can I take? What more consideration can I give to the Government? Naturally the announcement was made. And after that certainly he sent me a telegram to which I replied, "You never raised this question. Now the notification has been issued and the name has been mentioned and there is no question now of withdrawing the nomination."

I am sorry, I was not present here, but I am told that Shri Rajnarain gave a sort of threat and said that nearly ten or twenty thousand people will be killed. This is democracy. Everything has just to be expressed in terms of threats. Madam, I can say that if I am to be a real or trustworthy Home Minister of this country, who is responsible to this Legislature, then I cannot weaken before such threats.

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This is all I have to say. I cannot weaken before such threats. After full consideration, after taking care of all the matters involved in this matter, a certain decision was taken and communicated. I would make an appeal to hon. Members, and I would make an appeal to Mahamaya Babu again. We all wish him well. We all wish his Government well. But certain conventions have to be observed and observed properly. I would certainly make a request to him not to further carry on this controversy and to accept him. Mr. Kanungo will be the Governor and he should give him full cooperation in carrying out his work.

SHRI SUNDAR SINGH BHANDARI: Send him after March and then the Chief Minister will accept him.

SHRI Y. B. CHAVAN: Not with such conditions, because the President's right to appoint the Governor cannot be subjected to the consent or veto of the State Government however important the Chief Minister may be. That is very clear. Therefore . . .

SHRI SUNDAR SINGH BHANDARI: Let him take charge after March.

SHRI Y. B. CHAVAN: I have explained myself on the constitutional aspect and I have cleared my point on the facts. I have nothing to add.

THE DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at fourteen minutes past seven of the clock till eleven of the clock on Tuesday, the 21st November, 1967.