

it is a dirty city, but the Government of India is dead of hearing. Hooghly second bridge and Calcutta circular railway have been considered since long. The public is frustrated. Nobody now believes in these promises. The Government of India have given an assurance that there will be no financial difficulty for North Bengal relief work and electricity project, but all these works are half done due to want of funds.

MR. DEPUTY-SPEAKER : The hon. Member may resume on the next occasion.

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15 59 hrs.

MOTION RE-STATEMENT OF MINISTER OF HOME AFFAIRS ON WEST BENGAL GOVERNOR'S ADDRESS TO BOTH HOUSES OF THE STATE LEGISLATURE

MR. DEPUTY-SPEAKER : Now we shall take up the motion regarding the Home Minister's statement. Shri Surendranath Dwivedy.

We have three hours at our disposal. May I request the Mover, because he has to go away, to confine his remarks to 20 minutes ?

SHRI SURENDRANATH DWIVEDI (Kendrapara) : It is impossible. Not less than 30 minutes at the beginning.

[Mr. Speaker in the Chair]

I am very glad that this House has got the earliest opportunity to discuss this matter which has very serious implications, and if I may say so, the action of the Governor in West Bengal has really created a situation which is fraught with grave dangers.

My motion is very simple : I beg to move :

"That the statement made by the Minister of Home Affairs on the 6th March, 1969, regarding the Address by the Governor of West Bengal to both the Houses of the State Legislature assembled together on the 6th March, 1969, be taken into the consideration."

16 00 hrs.

What has been done in the West Bengal

Assembly on 6th March this year is a tragic chapter in our constitutional history. It exposes the manner in which the high office of governorship is being utilised for party and political purposes. Our Constitution gives a very eminent position to the Governor, just like the judiciary. This Parliament has the authority to impeach the President but there is no provision whatsoever to impeach the Governor although for the acts of omission and commission of the Governor, we can impeach the President or censure the Central Government as such.

What happened subsequently is more unusual ; the Governor enters into a public controversy by issuing a statement justifying his action inside the Assembly. That is the conclusion one reaches after reading the statement issued by Mr. Dharma Vira. I am convinced that he has shown no regard for the Constitution. His action has no constitutional validity and I shall not be wrong if I say that he acted unwisely, as a willing political instrument of the Central Government and his action is fraught with grave danger, politically.

But this is not the only occasion he has done so. On 21st November, 1968 he acted in an unconstitutional and arbitrary manner. This is more objectionable than what he did in November, 1968. Then he refused to let the Government discharge its duty by dismissing it without testing its majority in the Assembly. Here, on this occasion, on the first day of the session of the Assembly the elected representatives of the Government have to tell the people about their programmes, and their strategy. That is a constitutional right to be exercised through the Governor. They have to tell the people what their assessment of the political situation is. On this occasion also, by skipping over those two paragraphs the Governor had deprived them of their constitutional right. It is unconstitutional and wrong. He issues a public statement to defend his action, to which I shall come later. He has acted illegally and it is to be examined whether it is not a contempt of the Constitution. I am not going at present to dilate upon the point whether this action leads to impeachment or dismissal or something else ; that is a different thing.

What we are concerned with, what this country is concerned with, what this Parliament is concerned with, is the strengthening of the democratic apparatus, the democratic

[Shri Surendranath Dwivedy]

method of functioning. We have to examine from this point of view, when there is already a threat to the democratic functioning, when there is already a challenge that this particular Constitution and this form of democracy is not going to deliver the goods and not going to fulfil the aspirations of the people, whether it is not still more desirable that at this juncture we should act in a manner and the entire constitutional authorities should act in such a manner as would promote and strengthen democracy rather than throttle the democratic rights given in the Constitution. If we look at it from that point of view, there is no doubt in my mind that what has been done and what has been done at the instance, instigation and connivance of the Central Government, is nothing but throttling the constitutional rights of the people and of the elected government of the people.

Basically, they want to diminish the very rights and privileges that are provided in the Constitution. I want to point out that this very action raises three questions before us. The basic question which we should all remember when we are discussing a very important problem like this, is this. It is all right to say what the Constitution has given us. The constitution-makers cannot foresee all the eventualities that would happen before the country 15 years, 20 years or a 100 years hence. There is something provided in the Constitution; there is something implied and there is something unforeseen. Those unforeseen circumstances should be viewed in conformity with the principles and the objectives that the Constitution has placed before us. We have to see whether this Government, with its rigid attitude in interpreting the Constitution, with its rigid attitude by force of its brute majority to maintain somehow or other its power at the Centre or establish its own authority where probably the authority does not exist, is at all right in doing this. It is not only throttling the Constitution but it has gone beyond the rights of the Constitution.

AN HON. MEMBER : West Bengal.

SHRI SURENDRANATH DWIVEDY :  
The West Bengal people have given the verdict that what he did is unconstitutional, Do

not talk of West Bengal at this moment.  
(Interruption).

MR. SPEAKER : Order, order.

MR. SURENDRANATH DWIVEDY :  
I want to confine my criticisms to three aspects of the present question. The aspects are these. It is said that the Governor has discretion. Let us examine what is the discretionary power of the Governor. Secondly, can a Governor censure himself? Can he read portions of the speech which call upon him to condemn himself? Thirdly, can a constitutionally-elected government criticise the Central Government? The Governor says in his statement, "I being the head of the judiciary, can I also comment upon a judicial decision given by the West Bengal High Court that the action taken was not unconstitutional?" I will examine the three points in my speech.

Let us take the question of the Governor's duty when the legislature session is inaugurated. Article 176 of the Constitution clearly lays down what the Governor should do. It is mandatory. "The Governor shall " It is an obligatory function which he has to discharge. I might recall to you, Sir, that when the President is addressing Parliament, when there are some criticisms and protests on some matters, it is held to be demeaning and unbecoming for a Member of the House to interrupt the President, because it is a constitutional obligation that he is discharging and we should not prevent it. So, in the Constitution, it is mandatory—whether it is the Governor or the President—that he should address the House, and for what? "...inform the legislature of the causes of its summons."

Nowhere in the Constitution or in any interpretation of the Constitution published so far has it been stated that the Governor has the right to omit or say whatever he desires on the opening day. It is limited in the sense that he has to tell the House what is the cause of the summons. If you take the literal meaning, the Governor has to tell the House about the legislative programme for the coming year. We are always told about the British analogy, as if in Britain there is a provision for a Governor who cannot be impeached. The analogy does not apply to this case. It is an admitted fact

that apart from the legislative programme, the address takes an assessment of the political situation, what has happened in the previous year, what is going to happen, what are the repercussions, etc. All these are embodied in the Governor's address or the President's address. The President's Address delivered to Parliament on 17th February was not confined to the legislative programme. He made a roving analysis of the situation all over the world. Therefore, I think it is correct for the newly elected Government to tell the people on the opening day, through the Governor, who is their north-piece, as to how they feel about the past situation and how they want to tackle the coming situation.

The practice that is followed is, first the address is okayed by the Cabinet. Then the Governor is given an advance copy so that he may come prepared to read it fluently.

Without casting any aspersion on anybody, I may say, we always put superannuated people in those posts, who do not have proper eye-sight, etc. to read it properly. Therefore, an advance copy is sent to the Governor to enable him to read it clearly. Nothing more, nothing less.

A justification has been put forward in Mr. Chavan's statement than when the Governor received the advance copy, he objected to those two paragraphs and also wrote to the Chief Minister about it. When the Chief Minister objected to the Governor not reading those paragraphs, the Governor over-ruled it and did not read those paragraphs. If the Governor earlier wrote to the Chief Minister and the Chief Minister did not agree, it was the bounden duty of the Governor to read those paragraphs. It is not within the authority of the Governor to change the address or omit portions of it. Is it the defence of the Central Government that the Governor has a constitutional authority to do so? Here we see the spectacle of the Home Minister saying that the Central Government are not the advisers of the Governors. This is evading the issue, as if the Governors function in the air.

I had earlier put this question and I will put it again: Is it not a fact that the advisability, legality or constitutionality of omitting certain portions of the address was examined by the Government of India and

it was communicated to the Governor by the Law Ministry or any other Ministry? Was it not publicised in the press that Governor has the constitutional right to omit those paragraphs? Therefore, the responsibility is that of the Government of India. We are in a very anomalous position. The Home Minister says, we do not advise the Governor. The Governor functions independently; he is not responsible to the Legislative Assembly or to the Central Government or to Parliament; Parliament can do nothing about him; he only functions through the President and he is the agent of the President in the State! This is a misnomer: Mr. Chavan has said in his statement:

"Mr. Dharma Vira, the present Governor of West Bengal has requested the Prime Minister toward the end of October, 1968, for a change on personal grounds."

Mr. Dharma Vira has not written to the President. He is at the mercy of the Prime Minister, the Council of Ministers and the Home Minister. You are creating an irresponsible authority to sit between the people and the executive. It is a dangerous thing. You have actually misused, abused, the authority of Governor in a manner that people are losing faith in the democratic apparatus. I do not know why Dada is very much disturbed. I do not think anybody is going to appoint him as Governor.

SHRI J. B. KRIPALANI (Guna): Why is he uttering my name when I have not told him anything?

SHRI SURENDRANATH DWIVEDY: We have in this country certain established practices and conventions, which are as good as law. Can a Governor say, "I cannot criticise the Central Government"? We have been debating the question of wealth tax on agricultural property and there is a controversy going on in the country. Some State Governments are opposed to it. Next time, when the Governor opens the Assembly session, if any State Government says, "This is an encroachment on the rights of the States, we are prevented from functioning in a free manner" and if the State Government wants to criticise the Central Government, can the Governor in an arbitrary manner say, "Nothing doing. I am an agent of Mr. Chavan and I will not do anything which will offend my master, Mr. Chavan"? If

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that happens, there will be an end to democracy and I will not be surprised if the demand for the abolition of Governors mounts up. It is a very dangerous situation.

If it is mandatory, as I pointed out it is as it is mentioned anywhere in the Constitution that the Governor has discretion to omit those two paragraphs?

About these paragraphs I will mention a little later. Let us take the question of discretion. Discretion is given to the Governor under article 163 (2) where it is said that the Governor has some discretionary powers. There it is said:

"If any question arises whether any matter is or is not a matter as respects which the Governor is by or under the Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion."

That cannot be questioned in the court. That does not mean a Governor's unconstitutional act cannot be commented upon by others. What we are prohibited from doing under the rules is that we cannot have any personal criticism of Governors or the President because we have to give them due respect. The Constitution clearly lays down that the scope of this word "discretion" is very much limited. Shri Durga Das Basu, who is now a Judge in the Calcutta High Court, says that there is no other matter in respect of which a Governor is required by or under the Constitution to act in his discretion except under article 163 (2). That article should also be read accordingly unless a particular article expressly so provides. "His discretion" cannot be inferred by implication. Excepting in the question of Assam the Constitution does not give any power of discretion whatsoever for the Governor to act as he likes and he has always to act on the advice of his Council of Ministers. This has been further made clear by authorities like Shri Seervai and even Dr. Ambedkar himself. When this particular clause was being discussed in the Constituent Assembly a question was asked by my colleague—I am sorry he is not here in this Parliament—Shri Kamath. He asked, if in any particular case

the President does not act upon the advice of his ministers will that be tantamount to a violation of the Constitution and will he be liable to impeachment and to that Dr. Ambedkar replied: "There is not the slightest doubt about it." The case of the President, except for minor differences, is *mutatis mutandis* that of the Governor. Shri Seervai also commenting on this very matter said "The provisions of the Constitution which expressly require the Governor to exercise his powers in discretion are strictly defined." That being so there is no plea whatsoever to advance at this stage that the Governor had the discretionary power to omit certain portions of the Address. He is bound, as the President is, to read or act as his Council of Ministers advise him. He cannot get out of this fact. It is an obligation on his part. If he does anything other than that he goes beyond his powers and he forfeits the moral authority to continue as Governor.

When I say this, Sir, I think by invoking this power and requesting the Governor to act in a particular manner by abusing and mis-using the office of the Governor actually you have landed this Constitution to come to a mockery. We warned you not only today but before the 21st November, 1968. The Governor dismissed the West Bengal Government and here we had a discussion on 15th November, some five or six days prior to that, and my able colleague, Shri Nath Pai, had the honour to move a resolution, on behalf of the entire Opposition by agreement. If these people had heeded to the warning of the Opposition then probably this would not have occurred. They know fully well that the U. F. Government had included these paragraphs in the Governor's Address. But they were not worried. If they really had the interest of the nation, the interest of democracy and interest of the Constitution they should have taken note of our warnings and recalled the Governor from that post and thus avoided creating a situation like this.

But he did not do anything like that. He stood on false prestige. They wanted him to be recalled. But the Home Minister declared to the country "no, no; we are not acting on their request; but he has requested in October last and we are acting on that"; Is any fool going to believe this story?

If they wanted to avoid any constitutional criticism it was meet and proper for them to have recalled the Governor the day the elections were over or when there were sufficient indications from the UF Government of their attitude towards the Governor, and their intention to introduce in the Governor's speech paragraphs which will not be palatable to the Governor or the Central Government. But they did not do anything like that. Because of that I say there is a strain on Centre-State relations and the federal structure is really on test today. I warn the Government that because they have lost all hopes of getting a majority in 1972 they are acting in a way which will dig the grave for the future of democracy and constitutional government in this country.

Then I come to the question of censure, whether the Governor would have condemned himself by reading out these paragraphs. I admit that no self-respecting person would ever do it. If I am put in that position, I would immediately resign.

AN HON. MEMBER : He had no self-respect.

SHRI SURENDRANATH DWIVEDY : I would not ask any self-respecting person to do it. But to say it was a criticism of Shri Dharma Vira is not correct. Was there any mention of Shri Dharma Vira in the entire paragraph? No, not at all. What is it that he has omitted? It was really a comment on the manner in which the Governor functioned. There is no question of any personal criticism or personal censure. I am going to read the relevant sentence :

"You are all aware of the peremptory and unconstitutional manner in which the popularly elected United Front Government was thrown out on November 21, 1967, without the sanction of the august body."

Can a Governor object to this passage? I shall read another passage :

"The mid-term elections have again brought into focus the undisputed political maturity of our people."

The Governor objects to that!

"They have proved conclusively that the democratic will of the people exercised unfettered must be recognised as the supreme mandate for all government administration in this country."

Even this he has omitted. I do not know who advised him to do that.

AN HON. MEMBER : Shri Chavan.

SHRI SURENDRANATH DWIVEDY : It is a strange logic. As I have already pointed out, if there was any personal criticism, I for one would never agree that a self-respecting person should be allowed to do this. Even at that stage he could have taken the plea that these people had the audacity not to change him in spite of his request, that he had been asked to commit a very disgraceful act and he could have asked somebody else to read it saying "I cannot do it". In that way he could have avoided that situation, but that was also not done.

Then, the Governor himself has made a statement which contains a very strange logic. I still hold that it is contempt of the Constitution for the Governor, who is above party and who cannot enter into political controversies, to come out publicly by issuing statements, defending what he had done within the precincts of the legislature. But, as I have said in the beginning, it is nothing strange on the part of a Governor who has always acted to satisfy the political desires of the Central Government. Then he says how can he be criticised or how can it be said that he has acted in an unconstitutional manner when the judicial authority in West Bengal has pronounced a judgment that the formation of the minority puppet government under Dr. P. C. Ghosh was constitutional. I do not think this analogy is correct. After all, I do not think that the Governor has any authority. There is judiciary under the President. We do not recognise Governors to discharge the functions of the judiciary. If that becomes so, then there will be end of everything. Here, it is not a question of commenting on the judicial decision. It is a question of commenting on a fact which may be applicable to others. Even judicial decisions we discuss in Parliament in order to find out remedies if an action, we think, is not proper and we may amend the Constitution. So, it was within the rights of the State Government to point out that. What has been said either in a judicial court or by another authority is not applicable to us. We have the power to change it. These three criticisms, I think, have no validity at all. It is constitutionally untenable. It is really political. It is fraught with great dangers.

**SHRI HEM BARUA (Mangaldai):**  
Morally.

**SHRI SURENDRANATH DWIVEDY :**  
They have never functioned morally. There is no question of morality. What I say is, what was stated in these two paragraphs was not constitutional matters, was not illegal matters, but was political matters where there was some difference of opinion. It was known that the political party or the parties which formed the Government in West Bengal was not in agreement with the policies of the Central Government which is the appointing authority of the Governor. The Governor has to bow and is bound down by the advice of the Council of Ministers.

I will not dilate more on these points. I conclude by saying that these actions have really highlighted, pinpointed, the several issues before us. Let us give them a very cool consideration. Let us not be swayed away by emotions, I have only quoted Constitution to justify what I have to say. I have not gone beyond that. You know—this is not secret—I have no love for the U. F. Government in West Bengal. I am out of it. I was the person in this House who had condemned some of their actions when they were in the Government in the past. Let not anybody say that I am defending the U. F. Government. I am not in that category. My criticism is mainly because I sincerely feel that such actions will lead to throttling of democracy in this country. That is why I have brought these issues before the House. Let us apply our mind to three things which are very important, that is, the office of the Governor, what sort of office it should be, what sort of person should be appointed and the manner of his appointment. It is not provided in the Constitution. It is done without the consultation of the State Governments concerned. Let us discuss these things. Would you give him the authority to flout the State Government as he likes? The office of the Governor, the manner of his appointment, his powers, his relation with the Council of Ministers and his relation with the Union Government have not been defined anywhere in the Constitution. These issues have come before the country and further strains may have to be encountered within a very short time because, as you know, there is already a problem which has been posed by Mr.

Namboodripad and, I think, it has been repeated by Mr. Jyoti Basu or Mr. Sundaraya in a public meeting yesterday in West Bengal. They have questioned the right of the Central Government to recruit all-India officials who would be sent to the States and the States would not have any right whatsoever in the appointment of such officers. So, when all these questions come up, the Governor, who holds a very key position in the entire mechanism becomes important. It is right and proper that we also discuss and decide about his powers, about his relationship with the Council of Ministers, about his relationship with the Centre, whether he will be the office-boy of the Home Minister or, actually, he will be really responsible to the President.

Therefore, what I feel is that, if at all we are interested in preserving the dignity, the impartiality and the position that is assigned to the Governor in the Constitution, let us establish, by convention or by amending the rules or whatever it so, such a procedure which will make the Governor function as a bridge between the people and the executive; let him not be a barrier between them who will throttle even the legislative powers which are the only mouthpiece of the people. Therefore, this becomes necessary. I think, the time has come when we should all agree to this. (*Interruption* When there is no legislative Assembly or anything of that kind, the Governor may, in his judgment, commit an act which might create difficulties as has been done now. Therefore, it is all the more necessary—since you also agree that a Governor should not be a party-man—that the appointment of Governor should be ratified by Parliament. Whenever you appoint a Governor, you are consulting everybody, but let that appointment of Governor be ratified by Parliament as has been suggested by the A. R. C. that, in the case of appointment of Lokpal, the Leaders of the Opposition should also be consulted. I suggest this because we want to bestow that authority, those powers, on a person whose impartiality cannot be questioned. This is what is needed in this case. Therefore, I would suggest that Government accept the Bill introduced in this House by my Colleague Shri Nath Pai, that, whenever appointment of a Governor is made, it should be ratified by Parliament.

I have done. In the end, my appeal will

be to the country, to the people and to Parliament; let us all discuss this very seriously. For twenty years we have not applied our minds to this; we have rigidly followed something which does not really relate to the prevailing situation in the country. Let us apply our minds seriously and let us do something which will enlarge the scope of the rights of the people provided in the Constitution and will not diminish them.

MR. SPEAKER : Before I call the next speaker, I would like to inform the House that this is a three-hour debate. Naturally each party is given some time. 50 per cent of the time is given to the Congress Party; they may put some speakers; they may take ten minutes each; if they exceed the time, naturally the last speakers will suffer. On the Opposition side, the opener takes a little more time; that has been the convention, about 20 to 25 minutes, and since this is a three-hour debate, a little more time has been taken. The time for the other parties is : Swatantra 14 to 15 minutes; Jan Sangh 11 minutes; DMK 9 minutes; Communist 8 minutes; Communist (Marxist) 7 minutes; SSP 6 minutes and unattached 21 minutes unless I get too many names...

(*Interruption*) I can extend the time for the debate by half an hour or 40 minutes. That is all. If you want to sit upto 12 O' Clock, if you have the capacity, I do not mind, I will put somebody here.

Motion Moved :

"That the statement made by the Ministry Home Affairs on the 6th March, 1969 regarding the address by the Governor of West Bengal to both Houses of the States Legislature assembled together on the 6th March, 1969, be taken into consideration."

There are some substitute motions. Are they moving ?...

SHRI H. N. MUKERJEE (Calcutta North-East) : I beg to move :

That for the original motion, the following be substituted, namely :—

"This House, having considered the statement made by the Minister of Home Affairs on the 6th March, 1969 regarding the Address by the Governor of West Bengal to both Houses of the State

Legislature assembled together on the 6th March, 1969, recommends that the President be pleased to remove Shri DharmaVira, forthwith from the office of Governor of West Bengal." (1)

SHRI TENNETI VISWANATHAM (Visakhapatnam) : I beg to move :

That for the original motion, the following be substituted, namely :—

"This House, having considered the statement made by the Minister of Home Affairs on the 6th March, 1969 regarding the Address by the Governor of West Bengal to both Houses of the State Legislature assembled together on the 6th March, 1969, is of the opinion that the action of the West Bengal Governor in skipping over parts of the Address to the Assembly and Council Members made on the 6th March is against the spirit and letter of the Constitution and disapproves of such action on the part of a Governor." (2)

SHRI RABI RAY (Puri) : I beg to move :—

That for the original motion, the following be substituted, namely :—

"This House, having considered the statement made by the Minister of Home Affairs on the 6th March, 1969 regarding the Address by the Governor of West Bengal to both Houses of the State Legislature assembled together on the 6th March, 1969, disapproves the action of the West Bengal Governor in not acting strictly as Constitutional Head inasmuch as he refused to read the text of the mandatory Address as drafted by the Cabinet of West Bengal and raised a needless constitutional controversy with fruitful implications for the already strained Centre-State relations and the future of democracy in this country." (3)

SHRI GEORGE FERNANDES (Bombay South) : I beg to move :

That for the original motion, the following be substituted, namely :—

"This House, having considered the statement made by the Minister of Home Affairs on the 6th March, 1969 regarding the Address by the Governor of West Bengal to both Houses of the State

[Shri George Fernandes]

Legislature assembled together on the 6th March, 1969, condemns the action of the West Bengal Governor, Shri Dharma Vira, in omitting from his speech two paragraphs, thereby committing a grave constitutional breach and over-stepping his authority and discretionary powers, and creating ugly scenes in the West Bengal Legislative Assembly, and further straining the Centre-State relations in the country thereby posing a serious threat to the functioning of the the democratic system in the country." (4)

**SHRI SURENDRANATH DWIVEDY :** These should be circulated immediately.

**MR. SPEAKER :** They have already been circulated. Mr. Hanumanthaiya.

**SHRI HANUMANTHAIYA (Bangalore):** The Leader of the PSP has made a very passionate appeal that this problem deserves study. I wholeheartedly agree with him that every political and Constitutional problem that arises in this country has to be studied with care, with calmness and objectively.

Into a problem like the one we are facing, there is no use importing a partisan spirit and working ourselves up in a way that would see nothing good in the other point of view. At any rate, I am not going to take that stand.

I am speaking today merely as a student of administration. Shri Dwivedy made an appeal for study. Government has, in fact, I should say, the President has entrusted the Administrative Reforms Commission with a study of this subject. The terms of reference include Center-State relationship as well as the State-level administration. Therefore, the Commission is duty-bound to make recommendations on the subject. I am looking forward to this debate for guidance...

**SHRI NATH PAI (Rajapur) :** Is he speaking as Chairman of the ARC ?

**SHRI HANUMANTHAIYA :** ... so that party spokesmen who speak may suggest evolution of some convention, some new ideas which, according to them, may make this Constitution work smoothly.

The Commission has appointed a study team ..

**SHRI HEM BARUA :** This is extraordinary. Is he speaking as Chairman of the ARC ?

**SHRI HANUMANTHAIYA :** As a student of administration.

**SHRI NATH PAI :** We would like to hear him. But will he clarify one point ?

**SHRI HANUMANTHAIYA :** I do not yield.

**SHRI NATH PAI :** He is claiming to speak as Chairman of the ARC. He says he is looking forward to guidance from us.

**SHRI HANUMANTHAIYA :** I have not yielded.

**SHRI NATH PAI :** I seek protection.

**MR. SPEAKER :** He has understood it. I am sure he will speak knowing that is Chairman of ARC. Let us leave it to him.

**SHRI NATH PAI :** I had always persuaded myself to believe that the chairmanship of the ARC is a quasi-judicial office, which does not belong to any party or anybody. That we have a distinguished man like him as Chairman is all to the good. But I submit he cannot participate in this debate. I submit in all humility that as Chairman of ARC, he should forget what recommendations they are going to make, because we have not invited the Chairman here. He may speak as a distinguished Congress member in which capacity he has every right to speak. Then we will hear him. But he should not confuse the two offices.

**MR. SPEAKER :** After all, he is an hon. member. There are so many committees and commissions appointed by Government, who is chairman of which committee or commission is not the concern of the House or the Chair. I call upon him as a Member of the Lok Sabha to speak.



Why should he recall his chairmanship here ?  
Let him speak as an MP.

**SHRI HANUMANTHAIYA :** We had appointed a non-Congressmen and an eminent jurist as chairman of a study team on the subject of Centre-State relationship. For the purpose of concentrating attention on the problem, I will only read one sentence from their report ..

**SHRI HEM BARUA :** They have not submitted their report to Government. They will be embarrassed.

**SHRI HANUMANTHAIYA :** This is their prefatory observation :

"The office of the Governor is not meant to be an ornamental sinecure, the holder of this office is not required to be an inert cypher and his character, calibre and experience must be of an order that enables him to discharge with skill and detachment his dual responsibility towards the Centre and towards the State executive of which he is the constitutional head."

Shri Dwivedy was making the point that the Governor had no alternative except to do whatever he was advised. That is the correct position in a way. Suppose this argument was carried to the extreme, a situation would arise where the principle itself would be in jeopardy. I will give him an example, let him answer. Suppose some Chief Minister takes it into his head and incorporates a sentence, "I have resigned my Governorship", is he to read that also ?

**SHRI UMANATH (Pudukkottai) :** The Chief Minister is much more responsible than the Governor. Chief Ministers are elected by the public, they are more responsible than Mr. Hanumanthaiyah himself.

**SHRI S. KANDAPPAN (Mettur) :** A Chief Minister will not stoop to such a low level.

**SHRI HANUMANTHAIYA :** What really happened is not a constitutional crisis, but a crisis in the matter of courtesies. There are same people here who have been Chief Ministers, including you. In all these twenty years never was there a question of the kind we are facing today. If you wanted to have a Governor or have him transferred,

all that you had to do was to approach the Prime Minister or the Home Minister as the case may be and put forward the point of view privately. I do not think there has been any instance where the Government of India has declined to agree to the course a Chief Minister purposes to take. But here was a case where the Ministry makes a public issue of it at a public meeting.

It uses challenges and brings the Governor into public controversy. I want all people who believe in democratic procedure to examine dispassionately whether it is the Governor himself who arrived at the public meeting to raised controversy, or whether it was the other set of people. Therefore, when Governors are brought into the area of controversy, we must in all seriousness see who is responsible for it. The U. F. Ministry, which has every right to carry on the administration, after assuming office or even before that, could have come and met the Home Minister and the Prime Minister for five minutes talk, and this could have been resolved.

**SHRI UMANATH :** Why ?

**SHRI NAMBIAR :** On bended knees ?

**SHRI UMANATH :** He is thinking that the U. F. Government is like the Governor.

**MR. SPEAKER :** You can reply to his criticism in you reply, you will have a chance.

**SHRI HANUMANTHAIYA :** I would ask my learned friends ; if the U. F. Chief Minister or Deputy Chief Minister was not particular about the point, then why did they do it subsequently and discuss the matter.

**SHRI UMANATH :** Not on that point, that was to demand more money.

**MR. SPEAKER :** We do not know what they discussed. Why do you want to create a controversy ? We are not expected to know.

**SHRI HANUMANTHAIYA :** I want especially my friends of the P. S. P. to ponder over this question. The leader of the P. S. P., Shri Dwivedy said this Governor had no self-respect.

**SHRI SURENDRANATH DWIVEDY :** I have not said that, you have misunderstood. I said no self-respecting person would condemn himself if it is criticism of his person that the Government advised him to do, but it was the manner in which he functioned.

**SHRI HANUMANTHAIYA :** The manner in which he was functioning, the way in which he was going about things, did these arise only on the day he was reading the Address ?

We read in the newspapers that the United Front leaders were attacking the Governor personally all the time. If they were very particular that this person was very bad and took objection on the floor of the House for his deletion of some paras in reading the speech and showed their disapproval by not getting up to show respect, why did they weekly and respectfully take the oath of office from the same Governor ? When we take an office, it looks as though we give respect and assume respectability. Subsequently, if we do not agree, we do not give the same respect. This is only by way of argument. Let them re-think over this matter. It is not as though they are entirely in the right and that every point made by the UF leaders will pass muster. I want them to read this report .... (Interruptions) If they consider it as a constitutional issue, they may deal with it in that manner. Otherwise, if they want to make every issue a political issue and fight the Centre on that, I assure them that an overwhelming majority of the people are with the Centre and not with them. It had been proved any number of times. Even in the mid-term elections if you analyse votes, it is not as though all the people of India have supported anyone particular party in West Bengal with a clear mandate. Therefore, I do not want to answer them. It is because they are provoking me, I say these things.

**SHRI UMANATH :** The Ex-Chief Minister of Pondicherry has now been defeated ; still he goes on saying that the majority is with him.

**SHRI A. K. SEN** (Calcutta North-west) : We heard Mr. Dwivedy patiently ; why not they hear Mr. Hanumanthaiya patiently ?

**MR. SPEAKER :** I think we should follow some procedure. If things go on like

this, we cannot proceed even ten minutes further. If Mr. Nambiar and Umanath get up after every sentence and say something, they provoke this side and if Members from this side begin to do the same thing, God alone knows how I could control. At least on this side, there are only two or three. Therefore, everybody must have his say. Not that everybody should agree with what is said. Mr. Dwivedy was heard with attention and respect. I request hon. Members to give a patient hearing and later on reply when they get their chance to speak. Otherwise, there will be this kind of disorder which will not help anybody.

**SHRI HANUMANTHAIYA :** The Governor did not read certain paragraphs which criticised his own action. Was he right in doing so ? I do not want to take a personal view. This very matter went to the High Court.

The High Court decided that what the Governor had done was right. And is such a verdict of a court to be controverted by the Head of the State through a formal and official speech ? Could it be ever thought of ? Now, I will ask my friends of the SSP. The other day Shri Madhu Limaye made a great point that there was a Supreme Court remark against a particular individual in Bihar, an MLA, and he was made a Minister. I agree with him personally. But I would ask them to consider every judicial pronouncement with the same respect. There is a judicial pronouncement of the Calcutta High Court that the decision of the Speaker of the West Bengal Assembly was not correct. And that very sentence is sought to be included in that speech for being read by the Governor. Are my friends paying the same consideration and respect to the judicial pronouncement of the Calcutta High Court as they want to do in the case of the Raja of Ramgarh ?

The House is the forum which lays down laws for the whole of this land. There must be a certain amount of impartiality and objectivity in whatever we say and whatever we do. Whenever we quote the Supreme Court judgment, it must not be that we quote it whenever it suits us and we forget it or controvert it when it does not suit us ; that is not the true function of this House. The U. F. Ministry purposely wants to justify the action of the Speaker which has been held

incorrect by the High Court. On which side lies justice and equity, I want you to consider.

Even today, it is better, as Shri Surendra-nath Dwivedy has appealed, that we all put our shoulders to the effort of reconciling wherever there is a difference than of aggravating it. Merely to fight the Central Government on all the issues is not the correct way either of running a democracy or a State Government. As he promised, if he comes to power in 1972 in this House, he must very well take care even from now or to lay good precedents and not to go on shouting down Minister, Members of the Congress party and others. It is only then they will be able to run their ministry better. But precedents have already been laid in this House. We have to bow to them.

SHRI NAMBIAR : That is, to come to power we have to do it.

SHRI HANUMANTHAIYA : My only anxiety is, much as I would like them to come to power, they are barring themselves the privilege by these demonstrations, interruptions, and all kinds of attitude that do not please any sober people. It may be for the time being in some place or the other they may succeed, but in the end they will see that people will totally disapprove the ways that they have adopted.

17.00 hrs.

I want to make only one more point. The Governor, or any Governor for that matter, cannot be easily posted or reposted or transferred as my friends want to. Let us imagine a situation tomorrow : West Bengal has a Governor of its own liking ; if the Government of India wants to transfer that Governor now, would they react ?

Then, supposing the Governor goes on doing things which are unconstitutional, it is not as if this House will keep quiet. The Governor has a responsibility of his own under the Constitution. It may be that he take advice from the Home Minister and from Chief Minister. He has to weigh both and take a decision. The Constitution, to which we have all sworn, entrusts the Governor not only with the task of running the administration according to the law but also the task of protecting the Constitution.

When attempts are made to see that the Constitution itself is distorted, that the Constitution itself is given the go-by, it is his duty to see that such attempts are prevented. I want the hon. Members to see that the controversies that have taken place are merely those relating to tact and courtesy and not to any constitutional improprieties.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : As stated by Shri Hanumanthaiya, I also say that all party affiliations must be forgotten in discussing this particular question. The only question is whether the Governor acted correctly in skipping over certain paragraphs while reading the address. Sir, you are aware having been a Minister here and Chief Minister in a State, of the practice in this behalf. The practice has all along been for the Cabinet to write out the address and leaving to the Governor one or two sentences as a matter of courtesy, say, some words of thanks or appreciation. Nothing else is written by him. Sir, you know it very well.

Now, Shri Hanumanthaiya wanted to take the very extreme position of ridiculousness and say, supposing the Cabinet writes in the Address "I resign", do you expect the Governor to read it ? Well, in this country so far no Cabinet has gone to the level of that madness.

SHRI KAMALNAYAN BAJAJ (Wardha) : Can any Cabinet compel a Governor to condemn himself ?

SHRI TENNETI VISWANATHAM : I would plead with my hon. friends to have a little more patience. I will come to that.

All that has happened is that the West Bengal Cabinet has prepared a certain address from which he omitted certain portions while reading it. I suppose what offended him from the omitted portion is the sentence :

"You are all aware of the peremptory and unconstitutional manner in which the popularly elected United Front Government was thrown out on November 21, 1967, without the sanction of the august body, and the unseemly haste with which a minority government of defectors was installed in power..."

AN HON. MEMBER : Read further on.

**SHRI TENNETI VISWANATHAM :**  
I have read a particular sentence with a particular purpose

**AN HON. MEMBER :** Out of context.

**SHRI TENNETI VISWANATHAM :**  
It is not a secret document from which I have read. I have read that sentence with a particular purpose. The Governor, before taking office, takes an oath in which he says :

"I, to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people (of the State)."

How is the omission of this particular paragraph defending the Constitution? How was he applying himself "to the service and well-being of the people"? What I say is this. What he has done is not in pursuance of the Constitution. He had certain constitutional obligations. He has the duty to defend the Constitution. Does that paragraph offend the Constitution? Now, I will devote myself to the service and well-being of the people. Does that paragraph offend his obligation to preserve or defend the rights of the people or their well-being? Therefore, unconstitutionally speaking, what he has done is totally unconstitutional. Mr. Hanumanthaiyaya said, it is a matter of mutual courtesies. The courtesies are all right. They have been all right for 20 years. But things are changing and the courtesies now must be more well-defined. It is true in article 163, the word 'Governor in his discretion' have been used. But I do not know why that particular phrase has been put in article 163. In the 1935 Act, there were several sections in which it was said, the Governor could act in his individual discretion or judgment. But in this Constitution, there is no other article in which the Governor is asked to act according to his discretion. This phrase has somehow been left there in article 163. If you take the spirit of the Constitution, reading it as a whole, you can see that there is nothing that is left to his discretion. Sir, as you know, you yourself were the Chief Minister twice or thrice ..

**SHRI NATH PAI :** Very distinguished.

**MR. SPEAKER :** Very embarrassing !

**SHRI TENNETI VISWANATHAM :**  
You know even an I. C. S. officer who was a more diehard Governor, Mr. Trivedi, also did not allow himself to transgress a single word of what the Cabinet had said. You tried to go against his wishes saying that all the prisoners in jail were let off on the formation of the Andhra State. He was totally against it. But when it was put in there, he simply read it. Then, he was against the cancellation of land tax upto a particular point. But he read it. Of course, the Government changed and the other Government did not want it, and he again read the opposite. (*Inter uplon.*) Therefore, whether it is to his liking or not, so long as what is written there is within the spirit and terms of the Constitution, so long as it does not offend the Constitution, it is his duty to read it because his oath of office says so.

Here is a *Stoku* written saying is *Dharma Chakra Pravardhanaya*. One must see what is *dharna*, what is Constitutional and what is against the Constitution. If any constitutional pundit comes and says that these two paragraphs offend the Constitution, I will bow to him. The fact is that it is not a question of Constitution. It is a question of party warfare. What one Government did was not liked and that Government had to be toppled, another Government had to be brought in and the Central Government had its own role to play. Any sentence which made a reflection, not on the Constitution, not on the Governor, but on the Central Government's activities offends them. It pricks them. That is why I say that party affiliations should be forgotten for a time. We have to view it in the cold logic of the Constitution. We have to understand what the Governor's duties are. Today, if this Governor is allowed to skip over two paragraphs, tomorrow he will skip over two other paragraphs. An important policy may be laid down. For instance, the Centre is for prohibition—often they say so. Supposing the local Government says, 'No prohibition', does it mean that he will skip over the paragraph which offends the views of the Central Government? Surely, he cannot do it. Therefore, the Governor has got certain well-defined functions. They have been functioning for 20 years. This kind of thing never happened. Now, he might say, no Cabinet ever

wrote such a sentence. But, I say, no Governor has acted like this so far. (*Inter-ruption*). Sir, in the long course of my public life, I have learnt one lesson, namely, to listen patiently will make a man wiser.

Therefore, I suggest to my friends to listen to me and to tear off my arguments after I sit. Without following the trend of thought, if they go on interrupting me, they will not be any the better for it.

What I was saying was this. The Address did not contain anything unconstitutional. Criticism of the Central Government is not unconstitutional, as has already been pointed out. It did not offend the Constitution. The Governor was obliged only to defend the Constitution, to preserve the rights and to work for the well being of the people. The skipped paragraphs do not contain anything which go against the oath taken by the Governor. Taking his own personal prejudices into consideration, he skipped over those paragraphs. When the Chief Minister of the State drew his attention to that, even then he could have recovered his balance; he could have said, 'All right; I will certainly read.' But, instead of that, taking advantage of the position that he occupied there as Chairman of the Joint Session, he simply overruled him. In doing that, he has violated the oath of office that he has taken. If Governors go on violating their functions, the law and the Constitution in this manner, Parliament cannot sit quiet. It is not a question of one Mr. Dharma Vira; the same thing may happen tomorrow with another Governor. If Governors go on skipping over paragraphs which they do not like, no State Government can function. If a similar thing happens tomorrow at the Centre, I would ask the Ministers here to consider what would be the position. Therefore, in this case, Parliament has every right to disapprove of his act. I plead with all the members that they should consider this coolly, very dispassionately, and give their disapproval to this conduct of the Governor. The present Governor happens to be of West Bengal. Tomorrow it may happen with any other Governor, if we keep quiet now. Therefore, it is our duty to express our disapproval.

SHRI A. K. SEN (Calcutta North-West): I listened to my hon. friends, Shri Dwivedy and Shri Prakasam...

AN HON. MEMBER : Prakasam ?

SHRI A. K. SEN : I am sorry. I meant Shri Tenneti Viswanatham. I sincerely apologise for this. Because he was long associated with Mr. Prakasam, sub-consciously that name came ..

SHRI NATH PAI : You should be a little more regular in coming to the House.

SHRI A. K. SEN : I take my lessons from Mr. Nath Pai.

While listening to the hon. members who preceded me, I found one thing common, namely, that under our Constitution the Governor is a Constitutional authority. Normally he must declare the policies of the Government which is elected and responsible to the Legislature. But what I fail to agree about—and for that the hon. members will please bear with me—is their insistence that in discharging that Constitutional function, he must flout the other provisions of the Constitution. The Constitution contains many mandates and the mandate of following the advice of the responsible Council of Ministers is written down in the Constitution because without following that, a responsible Governor cannot possibly function. But, at the same time, he has to obey the Constitution's other directions. I can quote several of them, before I quote the High Court authorities, touching on this particular matter. I may have the liberty to place these before the House. The first one is article 261 which reads thus :

"Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State."

In other words, when there is a public act of the President here or of any other legally constituted authority, until it is found to be illegal by a competent court, full faith and obedience must be accorded; otherwise, no legal government can function. Secondly full faith and obedience must be accorded and extended to all judicial pronouncements; otherwise, our Constitutional fabric will fall as under (*Interrupti-n*).

श्री सच्चु लिम्बे (मुं गेर) : श्री कामाख्य नारायण सिंह के बारे में आपको क्या कहना है। उनके केस में भी तो कलकत्ता हाई कोर्ट का निर्णय आ चुका है।

MR. SPEAKER : Evidently my friend did not hear somebody speaking. This was brought in some other judgment. Mr. Kamakhya Narain Singh was brought in by Mr. Hanumanthaiya ..

श्री मधु लिमये : पश्चिम बंगाल पर अंतिम जजमेंट जनता ने दिया है ।

MR. SPEAKER : What about the other judgments with which my friends do not agree? About Bengal, he also pointed out. The hon. Member can reply to it when he gets his chance, but not shout in the middle. We accept only those which are convenient to us. That is the trouble. (*Interruption*). Please do not disturb like this. Perhaps you have not understood what they are talking. Let them finish. Later on, we shall see. There is nothing to quarrel about. He is quoting some judgment. The only thing is that we do not accept that which is not in our favour. If the hon. member wants to say something he can say it when he gets the chance to speak.

SHRI A. K. SEN : When Mr. Limaye is released by the Supreme Court, he expects the authorities who detained him to obey that order. I except the same because without that obedience our Constitutional Government will completely break up. Therefore, when Mr. Limaye expects the Government which, for the time being, illegally detained him, to obey the pronouncement of the Supreme Court, he must accord the same obedience to other judgments of other High Courts when it touches on a point different from him. There is an English saying : 'What is sauce for the gander is sauce for the goose also'. So, what is sauce for Mr. Limaye must be sauce for the Governor or for any citizen of this country. The Constitution speaks the same language in times of war or in peace, in times of trouble and in times of Constitutional normalities. Therefore, the language of the Constitution has to be interpreted by the courts and not by us or by Mr. Limaye or by the people in the streets. It is the very foundation of our Constitution that whenever a Constitutional controversy arises, the last word has to be said by our courts. I remember—we were than quite divided on the floor of the House—Mr. Nath Pai challenged the act of the Governor at that time in November 1967 in dismissing the Ministry headed by Mr. Ajoy Kumar Mukherjee. He quoted some judgments, particularly one from

the Supreme Court. I am glad the quotes Supreme Court judgements because that show our common obedience to a common source of law. The oath taken by the Governor, as quoted by Shri Tenneti Viswanatham, obliges him to observe the law, the law as declared by the courts and not by us. When we were divided—you will recall that occasion—Mr. Nath Pai stated that the Supreme Court judgment, the judgment of Shri Mukerjee, laid down this rule that the Governor must act on the advice of the Council of Ministers, and we on this side argued that in the matter of dismissal or appointment, that can possibly be the rule, he must act and act to his peril because if he chooses a Government which has no confidence of the Legislature, that Government will go.

If he dismisses a Government which is again voted to power, he does so at his peril. But the question of taking the advice of that very Government which is going to be dismissed cannot possibly be a matter of constitutional obligation. This is exactly what is urged in the case on this very question, namely, after the dismissal of the Ministry of Shri Ajoy Mukerjee and the appointment of the Ministry led by Dr. P. C. Ghosh, the matter was taken to court. The parties were represented there through counsel, many of them very well known counsel of Calcutta. Shri Ajoy Mukerjee was represented by a member of the Rajya Sabha who is an advocate, Shri A. P. Chatterjee. All the Ministers including Shri Jyoti Basu, Shri Niranjan Sen and everyone else who were made respondents in that appeared through counsel and addressed the court on the various points which were debated on the floor of this House on that occasion. The High Court, after hearing all the parties and noting their arguments, finally concluded in these words, which I propose to read because I do not want to put them in my own words, lest I may do less than justice to the judgment on which I place so much reliance.

SHRI DHIRESWAR KALITA (Gauhati): Is there no appeal pending against the judgment ?

SHRI A. K. SEN : It is pending.

SHRI DHIRESWAR KALITA : Then ?

SHRI A. K. SEN : Until the appeal

succeeds, this judgment is binding on everybody.

MR. SPEAKER : That is known to everybody.

SHRI DHIRESWAR KALITA : It is *sub judice*.

SHRI A. K. SEN : From that point of view, it will be highly improper for any Government to legislature to discuss the merits of the matter.

MR. SPEAKER : Do not lose time.

SHRI A. K. SEN : This is how the hon. Judge, after noting the arguments, discussed the question. It is reported in Vol. 72, Calcutta Weekly Notes, page 328, and the name of the case was Mahabirprasad Sharma *V.S.* P. C. Ghosh and others. These were the parties who were represented : Shri S. K. Acharya, a member of the Upper House in Bengal and belonging, I think, to the Communist Party (Marxists) and another advocate for Shri Jyoti Basu ; Shri A. P. Chatterjee, Member Rajya Sabha, and member of the Communist Party (Marxists) for Shri Niranjan Sen Gupta, one of the Ministers ; Shri Somnath Lahiri for Shri H. K. Konar, Shri S. N. Ghara for Shri Sushil Dara. This is how His Lordship put his ultimate conclusion in the matter—page 345, para 43 :

“Art. 164 (1) provides that the Ministers shall hold office during the pleasure of the Governor. This exercise of the pleasure of the Governor, however, has not been fettered by any condition or restriction. The withdrawal of the pleasure of the Governor is, in my view, a matter entirely in the discretion of the Governor. The provision in cl. 2 of art. 164 that the Ministers shall be collectively responsible to the Legislative Assembly...  
(Laughter).

We should not laugh at a High Court judgment (*Interruptions*). This is what I was going to say. The whole idea was to ridicule this judgment of the High Court through the mouth of the Governor, and the Governor acted rightly in declining to be the mouth-piece for condemnation of the High Court Judgment. If the High Court judgment is to be laughed at, it has to be laughed at some other forum, not on the floor of this House,

because we all owe our respect to the judiciary.

This shows the respect that they have for law which the Governor is pledged to uphold. Let me read :

“The provision of clause 2 of article 164 that the Ministers shall be collectively responsible to the legislative assembly of the State does not in any manner fetter or restrict the Governor's power to withdraw the pleasure during which the Ministers hold office. Collective responsibility contemplated by clause 2 of article 164 means that the Council of Ministers is answerable to the legislative assembly of the State. It follows that the majority of the members of the legislative assembly can at any time express its want of confidence in the Council of Ministers, but that is as far as the legislative assembly can go. The Constitution has not conferred any power on the legislative assembly of the State to dismiss or remove from office the Council of Ministers. If the Council of Ministers refuses to vacate the office of Minister even after a motion of no confidence has been passed against it, in the legislative assembly of the State, it will be then for the Governor to withdraw the pleasure during which the Council of Ministers hold office. The powers to appoint the Chief Minister and the Council of Ministers on the advice of the Chief Minister and the power to remove the Ministers from office by withdrawing the pleasure contemplated by article 164 (1) have been conferred upon the Governor of the State exclusively.”

This was the point decided after the debate. If it is to be disobeyed, it will only be disobeyed after the Supreme Court has pronounced its verdict on it, declaring it to have been wrongly decided. So long as the Supreme Court has not obliged the hon. members on the other side by such a verdict, it will be absolutely impertinent for a Governor to say on the floor of any on the floor legislature there he is not going to be bound by this judgement and he will declare it unconstitutional. That will be not only flouting his oath, but a complete contempt of the court and judiciary to which I have no doubt nobody here would like the Governor to be a party. (*Interruptions*).

[Shri A. K. Sen]

Hon. members were thrown out in Kerala, but they have come to power again. I will quote a very famous saying of Mr. Churchill. When Mr. Churchill, after winning the great war, such a terrific war it was, was thrown out of power ignominiously and the Labour Party came in a majority which was unprecedented in history, it was a complete rout for the Conservatives, he was asked "You have won the great war, how is it you have been defeated?", Mr. Churchill replied "It is only for this right that we fought." The hon. members ought to remember this. We know how to take defeat, they do not; because we are still in a majority they do not want a decision on the floor of the House, they want to go outside and fight in the streets. (Interruptions). Therefore, this in the essence of democracy that with the interplay of defeats and victories at the poll, not through the domination of one party alone, that democracy functions. It will be even from the point of view of propriety completely inappropriate for a subsequent government to come and say, instead of declaring its policy for the future, that its predecessors are black guards. Supposing tomorrow some other party forms the government, I shall welcome that day because that will be the victory of democracy, because the Constitution was framed by our constitution makers not to preserve the perpetual domination of the Congress party. When we are defeated, we will go to that side and we shall accept the defeat and play the role of a constructive opposition, but we shall never ask the President to come and say that whatever Jawahar Lal Nehru had done in dismissing the Kerala Ministry in 1958 was the act of a bounder. That will be going completely against the spirit of the constitution. If tomorrow this is done against Mr. Dharam Vira, then it can be done in Orissa against Mr. Lal Bahadur Shastri, in Kerala against Pandit Nehru for what he did in dismissing the Kerala Ministry. I am quoting Mr. Shastri's name because I know he was also accused on many occasions.

Particularly I remember an occasion concerning Orissa. Anyway, the point is that the Governor has got several duties to perform under the Constitution and it is by the observance of those multifarious duties that the delicate balance of constitutional Government can possibly be maintained. Now, when he obeys the whims of a Ministry which

says: you brand your predecessors as a host of black-marketeers or a host of thieves, will he be doing the constitutional duty? Or, if they were to ask him and tell him: though we have lost in the High Court the suit or proceeding initiated by us, you must declare on the floor of the House that it was unconstitutional. That is absolutely indefensible. I am one with the hon. Members in feeling that Mr. Dharam Vira should in all propriety be brought back because it is a difficult situation. Apart from the merits of the case, a constitutional Government cannot function with the Governor and the Council of Ministers pulling in opposite directions. Mr. Chavan knows and I have told him myself. That is different.

AN HON. MEMBER: That is the only matter.

SHRI A. K. SEN: That is not the matter. The whole idea is: you are the man who dismissed the Government and the High Court has upheld the dismissal; you must now rub your nose on the floor. Rubbing a nose on the floor at the instance of another party is a thing unknown in constitutional democracy; it is known only in totalitarian Government where the Opposition has no right to exist. Here the opposition is as much part of the Constitution as the victorious party which forms the Government and they have as much right to function here and see that the voice of the people is brought to focus. Therefore they should not forget this lesson and they cannot say that if they come to occupy the Treasury Benches tomorrow, they will make the President rub the nose on the floor of the House. That is subverting the Constitution and going against the spirit of the Constitution. We must play what is called Cricket in English (Interruption). They have won at the polls; let me hope that we shall win at the polls next time... (Interruptions). They may form the Government again; we shall still form the Government here. It is forgotten that we form the Government in many other States. If we play the same game there, then our constitutional fabric will completely break. Therefore, my appeal to the hon. Members is this. The first flush of victory should not blur our constitutional perspective. A proper constitutional perspective is the ultimate guarantee of a written constitution because



without the observance of those healthy conventions, the Constitution can never work. If you want to make a mockery of the constitutional head, make a ridiculous figure of it, you can do so. (*Interruptions*). He cannot be your instrument for painting him as clown nor can he be made to say that what the court has declared to be a constitutional act is according to him now constitutional misfeasance or constitutional offence. It is impossible. Therefore, when the hon. Members whose parties are forming Governments in certain States, they are here in opposition and all form part of the Government. So we appeal to them sincerely : let us maintain a proper balance and not be swept of our feet by temporary victory. We have no admiration for Churchill so far as his imperialist views were concerned. Those great words were uttered after the first defeat after the war was won ; they are a lesson for all democrats and those who believe in the parliamentary form of Government. Governments will come and go ; one will replace the other and it will be replaced in turn. That is the way democracy functions. Never through the commission of vendetta or through vindictiveness, never through the idea of playing the top dog and making the under dog lie low, can democracy function.

Let us not forget that the whole of India has not yet become a United Front regime. There are Congress regimes elsewhere and if the Opposition there wants to ..

AN HON. MEMBER : You go.

SHRI A. K. SEN : If we go, we go, but we will come back again. (*Interruption*).

AN HON. MEMBER : Going down the drain.

SHRI A. K. SEN : Only the Chinese democracy will prevent the Opposition from functioning. But we shall all die. Mr. Umanath will never be able to play the role of Mao Tse-tung on this soil of ours. We shall fight ; we shall fight the totalitarian regime. (*Interruption*). I can assure Shri Umanath that we shall fight to the last blood.

AN HON. MEMBER rose—

SHRI A. K. SEN : Sit down. Sir, you please look after him.

MR. SPEAKER : Order, order.

SHRI VISWANATHAMENON (Ernakulam) : What happened in Kerala ? (*Interruption*).

SHRI A. K. SEN : This Constitution is not the gift of any party,...

SHRI UMANATH : That Constitution, you have torn to pieces.

SHRI A. K. SEN : ...nor can it be destroyed by those who do not believe in it, because we know the cry has already been raised that the Constitution must be scrapped in Kerala and in some other parts of the country. The Constitution will never be scrapped. It is too sacred to be scrapped. It is part of our life ; it is part of our constitutional government. This is the only document which preserves the constitutional democracy and prevents this country from becoming a totalitarian country. (*Interruption*).

SHRI DHIRESWAR KALITA : Has he got the monopoly to belittle the Constitution?

MR. SPEAKER : Order, order. It is not proper, Mr. Kalita.

SHRI A. K. SEN : When in 1957, the first non-Congress Government was in stalled in Kerala, they were flushed with the paeon of victory, and the result was that they have become wiser now, because they could not stab the Constitution. Every small magistrate, every small magistrate's court, upheld the dignity of the individual and the liberty of the State and the Constitution like a bulwark against totalitarian methods. Therefore, the courts in this country and Parliament here at the Centre stand as a solid bedrock on which our Constitution is founded, and it will only founder when we lose our faith in that fabric, in that great structure which our Constitution-makers have build up and given us; it is a rich legacy, and it has given us that faith and that enlivening hope in us that when we are defeated today, we shall win again tomorrow. There is that faith in us and that hope which is everlasting in our breath that we shall win again, and it is that faith which keeps us alive. What they are seeking to do is to completely destroy that faith ; our way of life is different from the Chinese way of life, and the totalitarian way of life.

[Shri A. K. Sen]

Therefore, again it is my appeal to Shri Surendranath Dwivedy. They tell us that they are great believers in the Constitution. I appeal to them that we must completely shed from our mind the idea to be vindictive, to make people humble before the public eye, to flout the authority of the law by trying to belittle all the pronouncements of competent courts, for, by that we shall never serve our people or our citizen by the great rights which the Constitution has given us.

The Constitution is not meant for today or tomorrow. It is meant for all times to come. Therefore, that faith, that training, that lesson in democracy which accepts defeat as much as victory with the same mind which accepts a way different from mine with the same devotion, that alone will allow the Constitution to function. I do not want to quote the Gita on this occasion, but it is the same lesson that the Gita has taught us. "लाभाला मो जयाजयो" You must treat victory and defeat in the same way. That is the lesson of democracy. Therefore, what has been sought to be done was really trying to switch the gear back and subvert the authority of the law and belittle the court, which had pronounced upon a certain constitutional problem. The Governor, it appears to me, has done the right thing in refusing to make himself an instrument for that desire.

To Mr. Chavon, I would say, proper conventions must be set up with very great caution and care. Many of us feel that we should not have allowed a Governor and Council of Ministers to function as hostiles. (Interruptions).

Mr. SPEAKER : We are losing time. As has been pointed out, the Congress Party has taken one hour already between their two Speaker.

SHRI NATH PAI (Rajapur): And very little.

Mr. SPEAKER : The Law Minister and Home Minister also have to speak. So I might call two or three opposition member one after the other.

SHRI PRAKASH VIR SHASTRI (Hapur): What about movers of the resolution ?

Mr. SPEAKER : I am not calling all of them. Independents are entitled to 22 minutes. Mr. Viswanatham has spoken and one more member can be accommodated. But my difficulty is three or four senior independent members want to speak.

श्री प्रकाशवीर शास्त्री : जो इस के प्रस्तावक हैं, उनके लिये प्राप क्या कह रहे हैं ।

MR. SPEAKER : From the communist party, half a dozen members might have moved it. All of them cannot be called. Similarly in the case of PSP, Mr. Dwivedy has spoken and I am not calling Mr. Sreedharan and others. Now, Mr. Dandeker. The time for the various parties and independents is fixed.

SHRI N. DANDEKER (Jamnagar) : Sir, I want to begin by regretting the action of the Government of India in permitting this sort of situation to arise at all. After the stormy months through which the Governor of West Bengal had passed since the formation of the first U. F. Government early in 1967, and the difficult period and problems he had to contend with since then, it was not surprising that, when he found perhaps that he was becoming increasingly the centre of political debate, he requested the Government of India in October last to relieve him as early as possible. It seems to me that the Government of India really lacked perception and appreciation of the total position—both the political situation in Bengal as it was then developing and the difficult position of the Governor himself—in not acceding to his request at the earliest possible opportunity after he had made it.

The position of a Governor is exceedingly difficult. He has to steer clear in an agreeable way with two or three other authorities around him. It is a position where a person has got to behave with the greatest tact, dignity and decorum. It is not an easy job, not easy at all in the situation which was prevailing in West Bengal. And the Governor was making out exceedingly well with it.

Unfortunately, the Government of India, for no reasons that I can think of, decided not to accede to his request ; and so we have this unfortunate development which we are discussing today.

Equally, I would like to say, I cannot for the life of me conceive of any reason why the United Front Government, having come in with such a magnificent majority, should have chosen to take up such debatable matters in this ridiculous way to precipitate a crisis of this kind, with a person with whom they were really not concerned, nor with anything that the Governor had done which was, so far as judicial pronouncements went, either unlawful or improper. I would like to say, Sir, that both the Government of India, by not acceding to the Governor's request last year, and the United Front Government, by quite unnecessarily precipitating this crisis, as it seems to me, have become contributory causes to this unfortunate situation that we are discussing today.

Nevertheless, the situation exists and we must take a view concerning it. Sir, I am one with all those who maintained that it is the duty of the Governor in a constitutional set up, such as we have, to go as far as he can to follow constitutional conventions,—indeed much farther than some of us would in certain circumstances think it would be proper for him to go; because there is, and bound to be, difference of opinion on specific matters of this kind, I agree that it is the duty of the Governor to go as far as he can to accept, follow and act upon the advice of his Cabinet or Council of Ministers.

But the question here is not general one of that kind. I do not think this particular matter ought to be discussed at all in terms of constitutional theory and general propositions; in other words, in a vacuum. I suggest the question here is a very specific one, namely, whether,—in the facts and circumstances, as they appear from the two particular paragraphs in dispute,—whether the Governor was right or wrong in exercising, as he thought, his discretion by omitting to read those two paragraphs. Therefore, Sir we really have got to go precisely through those paragraphs and see whether,—quite apart from any subsequent statements which the Governor might have made, whether we can see anything in these paragraphs to which any reasonable man, holding a constitutional office like the Governor, could have taken exception. And so I considered I believe he could quite properly have taken exception to a number

of statements in these two paragraphs, some of which I will presently read. For example, the Governor was expected to say this:

"You are all aware of the peremptory and unconstitutional manner in which the popularly elected United Front Government was thrown out on November 21, 1967."

He was expected to subscribe to a proposition of that sort, condemning himself. Then it reads:

"The people of the State were shocked to find that this anti-democratic act received open acclaim from the Central Government authorities although the constitutional impropriety of the move had been so clearly and emphatically denounced by the Speaker..."

There is here no mention of the fact that this alleged "constitutional impropriety" was upheld by the High Court as entirely constitutional. Then, there is another sentence:

"Million turned out in the cities, in the villages, in the industrial centres and in the educational institutions to launch democratic movement against the authorities which had usurped power in unashamed defiance of the Constitution."

They expect the Governor, Sir, to condemn the President of India and also himself through his own mouth, to refer to his past action as a constitutional impropriety in an address which he was expected to read... (*Interruptions.*) I could read many more sentences from these two paragraphs which the Governor decided he would not read. One sentence is:

"My Government and the people of this State are anxious not only that there should never again be any repetition of such a deplorable cycle of events, but that adequate safeguards should be provided in our Constitution to rule out completely the scope for such questionable manoeuvres aimed at overriding the wishes of the people."

The person who had been the Governor during the period to which they relate, was required to commit himself to such statements. He was being required to say what was palpably untrue. He has been required to commit or expose himself to the charge of *suppressio veri* and *suggestio falsi*. No self-respecting person, and certainly not this

[Shri N. Dandekar]

Governor,—and I am glad not *this* Governor,—could possibly subscribe to propositions of that kind.

Sir, because this Governor has been named,—we have got into the habit, when discussing officials, to bandy names around—I say, *this particular Governor*. Otherwise, I would not have cared to emphasize that. I would have said, “a Governor”—that is how he ought to have been referred to; but his name has been bandied about—and, therefore, I am compelled to refer to him as I have done.

What could be the constitutional procedure or propriety which should require the Governor to tell a lot of lies to his knowledge? What could be the constitutional propriety which should require the Governor to make propositions which suggest the falsehood? What would be the constitutional propriety of *any kind* that should require the Governor knowingly to suppress the truth about these matters? It is not as if the Governor did any more than to delete those offensive paragraphs. He has not added or inserted any justification of his action.

But, Sir, the real point of the matter is: What *are* these Governors' Addresses about? What should they be about? Whether there is a change in Government or not, it is well recognised that they should be concerned with adumbrating the policies of the Government that are going to be followed, with the stating of problems that exist at the time the Governor takes over, with the suggesting of solutions which they are going to adopt and hope to adopt for the advancement of the particular State or of the country if it is the Central Government. Therefore, I cannot help saying that the portions of the Address which formed the subject of this controversy and which the Governor refused to read were irrelevant, being criticisms of happenings *before* the mid-term poll. I do not see any plausible justification for them on grounds of policy with which the Address ought to be concerned,—whether on grounds of what they are going to do, or as a matter with which they ought to be concerned. In other words, if the Address would be concerned with matters of policy and that kind of a thing, then even if the Governor differed with their policies, it would be his duty to read it, But

it was no part of his duty to be reading matters which amounted to his own admission that he was wrong, which amounted to an admission that the High Court was wrong, which amounted to an admission that the President who was his appointing authority, that he too was wrong...

श्री रवि राव : मैं आपको याद दिलाना चाहता हूँ कि उड़ीसा के चीफ मिनिस्टर ने श्री धर्मवीर की मन्दा की है।

SHRI N. DANDEKER : I am aware of this. There is a considerable difference of opinion on the subject, a very honest difference of opinion. I have read this morning that Shri R. N. Singh Deo, the Chief Minister of Orissa, has expressed the opposite view. We do not steamroller our opinions within our party. We take problems on merits; we deal with all problems on merits.

I do submit that the Address, in regard to these two paragraphs, went completely beyond and outside the normal expected scope of a Governor's Address, however much you may stretch it, for it sought to put in the Governor's mouth not only a condemnation of himself but the High Court; and these were not matters concerned with the policies of the Government. I am, therefore, entirely in agreement with the act which the Governor did; and I would like to say that we, on this side do not consider him guilty of any constitutional impropriety.

श्री जगन्नाथ राव जोशी (भोपाल) : अध्यक्ष महोदय, पश्चिम बंगाल के राज्यपाल ने अभिभाषण के कुछ अंश पढ़ने से जो इनकार किया, उस बात को लेकर एक संकट खड़ा हुआ है। उसका रूप शायद संवैधानिक हो सकता है किन्तु उसका ज्यादा रूप राजनीतिक है। हम संवैधानिक तरीके से यह सिद्ध करेंगे, कुछ देसी, विशेषकर इंग्लैंड की परम्परा को बोलकर, कि जो भी भाषण सँघार हुआ होता है, वह तो जो एक मंत्रिमंडल रहता है, उसकी नीतियों के बारे में रहता है और जो माननीय राज्यपाल महोदय

होते हैं, वह उस को पढ़ते हैं। एक बार राज्यपाल महोदय को यह छूट मिले कि वे कुछ धंश छोड़ दें तो कल जा कर उस का कंसा दुरुपयोग होगा, कौसी संवैधानिक आपत्तियां खड़ी होंगी, यह कहना मुश्किल है। जैसी कि हिस्सी में कहावत है—बुढ़िया मर गई, इस का अपसोस नहीं, लेकिन मृत्यु ने दरवाजा देखा लिखा। एक बार हम छूट दे दें तो प्रागे चल कर हमारे लिये ही आपत्तियां खड़ी होंगी। इस लिये मैं केन्द्रीय शासन से कहना चाहता हूँ कि चुनावों के पश्चात् देश के अन्दर जो नया परिवर्तन आया है, अपने संविधान का ढाँचा यद्यपि संघ-राज्यात्मक है किन्तु उस का सारा जी भाव है, वह यूनितरी या एकात्मक है। और इसी तरीके से, इसी ढंग से इस संविधान को कार्यान्वित करना बहुत आवश्यक है। किन्तु उन्हें जो ध्यान देना चाहिये था, मुझे बड़े दुःख के साथ कहना पड़ता है—वह ध्यान नहीं दिया। सन् 1967 के बाद देश के अन्दर कई प्रदेशों में गैर कांग्रेसी शासन कायम हुए हैं। मद्रास, उड़ीसा, पंजाब, केरल, इत्यादि में बने हैं। हम जानते हैं कि अलग-अलग प्रदेश में अलग-अलग विचारवाले होने के कारण यह तनाव कहीं तो ज्यादा और कहीं कम है। किन्तु केरल और बंगाल में केन्द्र और राज्य के बीच यह जो लगातार तनाव आया, उस के मूल में जब तक हम नहीं जायेंगे, और ऊपर ही ऊपर एबहाक कुछ करते जायेंगे तो इस का सामना करना बहुत कठिन होगा। मेरे मित्र श्री दाण्डेकर जी को लम्बा कि स्वयं राज्यपाल महोदय अपनी आलोचना कैसे कर सकते हैं। किन्तु जो सम्प्रदायी संहिता है उसमें सेल्फ क्रिटिसिज्म का बहुत बड़ा स्थान रहता है। वे सेल्फ क्रिटिसिज्म करते हैं इसीलिए उन्हें ऐस लिखा। इसमें कोई आश्चर्य की बात नहीं है। ए प्रीसिएट सेल्फ क्रिटिसिज्म इसके रहते उनको कायब लगा होगा कि चूंकि पश्चिम बंगाल में नया राज्य आया हुआ है इसलिए शायद राज्यपाल भी अपनी आलोचना करें, दूसरों के सामने अपने की गलत साबित

करें। तो इसलिए उनकी जो विचारधारा है, उसकी मूल में हमें जाना पड़ेगा।

अभी एक सम्माननीय सदस्य ने कहा कि अखिल भारतीय सेवाओं के बारे में, पश्चिम बंगाल के जो एक मंत्री थे, उन्होंने कुछ आपत्ति उठाई है। यह बात यहीं खत्म नहीं होती है। राज्यपाल का अभिभाषण पढ़ना या न पढ़ना, उसको छोड़ कर जो अस्तित्व है, अगर वहां तक हम नहीं जायेंगे तो इस प्रकार के तनाव बराबर बढ़ते ही जायेंगे।

17.57 hrs.

[Mr. Deputy Speaker in the Chair]

उपाध्यक्ष महोदय, मूल विचारों में अन्तर कहां है? इस सदन के माननीय सदस्य श्री राममूर्ति हैं या जो केरल के सदस्य श्री वासुदेवन हैं वे जिस परिवर्तन को सोचते हैं उसमें अन्तर है। They consider this Country to be a multi-national State.

हम इस को कंसिडर नहीं करते हैं। हम देश को एक राष्ट्र के रूप में ले कर चलते हैं। परन्तु बुनियादी स्तर पर विचारों में अन्तर है। कल को कोई यह मांग करे कि राज्यपाल को हमारे कहने पर आना चाहिए या राज्यपाल का पद ही निकाल देना चाहिए, राज्यपाल की ज़रूरत ही नहीं है तो धीरे-धीरे किस दिशा की ओर यह देश को ले जाना चाहते हैं, इस को हमें देखना होगा।

मुझे पता है महाराष्ट्र समिति का जो आन्दोलन चल रहा था तो इसी सदन के एक माननीय सदस्य श्री डांगे जी हैं, उन की ओर से महाराष्ट्र को अंग्रेजी में मराठी नेशन, इस दृष्टि के प्रयोजन किया गया था। इस पर जब आपत्ति उठाई गई तो श्री डांगे जी ने हंसते-हंसते कहा था कि महाराष्ट्र के नाम में ही राष्ट्र है, आप आपत्ति क्यों करते हो? यदि इस को हम स्वीकार करें तो अपने देश में घृतराष्ट्र व्यक्ति के नाम में भी राष्ट्र है, सीराष्ट्र प्रदेश में भी राष्ट्र है, तो क्या गुजरात के अन्दर सी स्टेट्स

[श्री जगन्नाथ राव जोशी]

थीं। इसलिए बुनियादी अंतर है समग्र भारतवर्ष में—

उत्तरं यत् समुद्रस्य हिमाद्रेश्चैव दक्षिणम्  
वर्षं तद् भारत नाम ॥

मुद्गर दक्षिण केरल से उत्तर में हिमाचल की चोटी तक विस्तीर्ण विशाल भू-प्रदेश भारत है। नेशनलिटी जिस को राष्ट्रीयता कहते हैं उस की आत्मा भाषा नहीं बल्कि संस्कृति होती है। जब तक इस को हम नहीं पहचानेंगे, चाहे हम केरल में हों या कश्मीर में हों, तब तक हम एक संस्कृति के आधार पर एक राष्ट्र के आधार पर नहीं चल सकते। माननीय विष्वनाथ जी ने कहा "धर्म चक्र प्रवर्तनाय"। अपना संविधान धर्म जरूर है। किन्तु पुराने ऋषियों ने कहा है कि वेद कई हैं, उस का अर्थ बताने वाले कई हैं, स्मृतियाँ कई हैं। इसलिए उन्होंने आखिर में कहा "धर्मस्य तत्वम निहितम गुहाया, महाजनो येनगतसः पथा"। इसलिये केवल संविधान कहने से काम नहीं चलेगा। कुछ स्वस्थ परम्परायें हम को डालनी पड़ेंगी जिन को देख कर हम आगे जा सकते हैं। जब 1967 के चुनाव के उपरान्त इस देश के अंदर एक नया परिवर्तन आया और अलग अलग विचार वाले राज्य करने लगे तो आगे चल कर कौसी समस्याएँ खड़ी होंगी इस को समझ कर उस को कैसे रोकें इस दृष्टि से यदि यह प्रयत्न करते तो अच्छा होता। किन्तु मुझे दुःख के साथ कहना पड़ता है कि पश्चिम बंगाल का पहला शासन जो बरखास्त किया गया वह यदि नक्सलबाड़ी के विचार को ले कर करते तो हम कहते कि राष्ट्र के बारे में इन के मन में एक भावना है। कृषि राज्य का विषय है, किसानों को वह सहूलियत दे सकते हैं, कोई भी कानून बना सकते थे। किन्तु न करने के बजाय जिन्होंने ने बिद्रोह किया, आग वहां खड़ी की, इस बात को ले कर उन्होंने ने उन को हटाया नहीं।

13.00 hrs.

तो केवल सदन कब बुलाया जाय, आज बुलाया जाय, कुछ दिन छोड़ कर बुलाया जाय,

इस बात को ले कर जो हटाने की होती है इस से बड़ा दुःख होता है। आज भी यह जो राज्यपाल महोदय अपने अभिभाषण के कौन से अंश छोड़ें कौन से न छोड़ें इस बात का जो एक बबन्डर बनाया तो क्या हम यह समझें कि कोई प्रदेश हम को कौन सा राज्यपाल चाहिये यह डिक्टेट कर सकते हैं क्या? इस बात को ले कर यदि सवाल खड़ा करते तो राष्ट्रवादी शक्ति देश की केन्द्र के साथ आती। किन्तु इस को छोड़ कर अंश पढ़ाना चाहिये, न पढ़ना चाहिये ऐसी बिल्कुल अनइम्पीटेंट बातें होती हैं, उस पर जब क्राइसिस खड़ी की जाती है तो मुझ को एक अंग्रेजी प्रोफेसर की याद आती है। एक अंग्रेज प्रोफेसर शाम को घर आया उस की पत्नी ने गुस्से में आ कर कहा कि देखिये आप की लड़की ने क्या किया। तो बड़ी शान्ति से उन्होंने ने कहा कि क्या किया। तो लड़की ने एक चिट्ठी लिखी थी "I am running away with my lover. Papa, please excuse. तो अंग्रेज प्रोफेसर ने कहा I will not excuse. I do not mind her running away, but why should she spell it wrongly with a single 'n'?" लड़की भाग गई इस का दुःख नहीं लेकिन रिंगिंग के स्पैलिंग ठीक नहीं लिखे इस का उन को दुःख था। इस बात को ले कर जैसे अंग्रेज प्रोफेसर गुस्सा करता है ऐसे ही अराष्ट्रवादी विघटनकारी तत्वों को जिस से प्रोत्साहन मिलता है उस को छोड़ कर असेम्बली कब बुलायी जाय, इस को ले कर जो भगड़ा होता है यह ठीक नहीं है। इसलिये मैं समझता हूँ कि समय आया है कि राज्यपाल के अधिकार, उस की मर्यादा क्या है इस को तय होना चाहिये।

महामहिम श्रेय्ये डाक्टर राजेन्द्र बाबू ने इस बात का जिक्र किया था अपने संविधान में राष्ट्रपति के अधिकार क्या हैं, राज्यपाल के अधिकार क्या हैं, अध्यक्ष के अधिकार क्या हैं इन की जब तक मर्यादा निश्चित कर के एक स्वस्थ परम्परा देश के अन्दर नहीं डालते तो आगे चल कर जिन को देश के बारे में कुछ

प्रेम है उन को इस को सोचना पड़ेगा। हम साम्यवादियों से संविधान का समादर वह करें इस की अपेक्षा उन से नहीं कर सकते हैं। वास्तव में जिस बात पर आपत्ति उठानी चाहिये थी, जिस राज्यपाल से शपथ ग्रहण की क्योंकि अधिकार चाहिये था, वही राज्यपाल जब सदन के अंदर प्रवेश करता है उस समय पूरी काउन्सिल आफ् मिनिस्टर बैठे रहे, यह अशिष्टता का व्यवहार है। वास्तव में प्रजातन्त्र को समादर से देखने वाले मैं समझ सकता हूँ विरोध जरूर करें, किन्तु अशिष्टता क्यों? बैठ क्यों रहे। आखिर जब हम डेमोक्रेसी की, प्रजातन्त्र की लोकतंत्र की बात करते हैं उस में आस्था बताते हैं तो उस का परिपालन खुद करें। यह बहुत आवश्यक होता है। इसी दृष्टि से समय आया है कि कांग्रेस शासन यह समझ ले कि देश के अंदर ऐसी स्वस्थ परम्परा डाले, खुद उस का आचरण करे। न कि राज्यपाल के पद को जैसा अग्रिय उन्हीं ने बनाया है, उस का दुरुपयोग कर के अलग-अलग जगह अलग-अलग शासन को लौटने की दृष्टि से जो काम हुआ वह ठीक नहीं है। आगे चल कर कम से कम इस देश से प्यार करने वाले वे भी हैं और हम भी हैं, हम चाहते हैं कि देश के अंदर परम्परा बने, देश की अखंडता अक्षुण्ण रहे। आज की स्थिति को दृष्टि में रखते हुए उस के व्यापी अधिकार और मर्यादा को तय करें तथा अन्त-राज्यीय विवादों को हल करने के लिये अनुच्छेद 243 के अंदर जो राष्ट्रपति को अधिकार मिला हुआ है वैसे एक आयोग यहाँ स्थायी रूप से बिठा कर, आगे चल कर ऐसा तनाव पैदा न हो इस दृष्टि से हम क्या करें इस दृष्टि से सोचना अत्यन्त आवश्यक है।

**SHRI S. KANDAPPAN (Mettur) :** I think it is high time that the Governors are properly governed. If they think that they are to govern the State, I am afraid that, that thesis can no longer be supported in the changing political situation that has arisen in this country. Let it not be misunderstood that I am saying something against the present

relations that exist in my State between the Chief Minister and the Governor. Our relations are cordial. That does not mean that the Governors should take very dictatorial power upon their heads as if only they are the patriots and it is only they who are responsible to defend the Constitution. I do not subscribe to that view. Nor are we right in suspecting the *bon fides* of the State Governments who are faithful to communist or other ideologies. An hon. Member said that we could not leave the State Governments to their own sweet will. They should carry on the Government according to the Constitution. That is what exactly they do. We may differ in our assessments. For example, soon after the formation of the DMK Government in Tamil Nadu they thought that there was erosion of the constitutional powers that were vested in the States and the Governor did make a plea in his Address that there should be a reappraisal of the Constitution and the States should be given more powers because that was our view. It was expressed by the Governor and only that kind of procedure can establish cordial relations and the States can carry on their functions; otherwise it will be impossible. If the argument of the Congress is that we should retain the Governor in the State to spy on the activities of the State Governments, that is objectionable. That attitude is wrong. It pre-supposes that patriotism is the monopoly of the Central Government and not that of the State Government. The whole idea is obnoxious. We all subscribe to the Constitution members of the State legislature as well as the Government to whichever political party they may belong. That is why I say that it is high time that the Governors are governed, if not totally abolished. I do not feel that any damage would be done to this country's integrity if the Governor is not stationed in the State capital. Suppose the Governor is not there. If there is a constitutional crisis, I do not think it will be difficult for the Home Minister or the Central Government to take suitable action. There are the police dogs, for instance. They are trained and kept only in some places and not in all the police stations. When there is a murder or any serious crime, they are taken to the place of crime and they try to trace the culprit. Just like that you can have some trained people here in the Centre, instead of spending so much money in every capital. It is very unfair to argue or treat

[Shri S. Kandappan]

the State Governments as suspects. That is a dangerous notion that has gone into the heads of some hon. Members that they are the only patriots and that it is their duty alone to defend the integrity of this country and not the people or the Governments in the States. If the States are not going to be strong, if they are not allowed to be strong, who is going to defend the country? Nobody can defend the country. After all everything comes from the States. All these things have happened after 1967. Members belonging to the Congress Party have said in so many words that so long as the Congress Governments remained in the various States, there was no quarrel. There was nothing to be surprised in this because they belong to the same party; and naturally they were able to carry on well. But after the last general elections—1967 elections—the emergence of a new force has created problems in this country. I look at it from a different angle. Actually, if the intention of the Government is really very honest and as they profess, as they proclaim that they are adherents of true democracy and democratic decency and they are very keen about laying certain democratic conventions, healthy conventions, in this country, I am sure that they would have acted differently in West Bengal. But the real approach, motive, of the Congress in the past two years as we are seeing, is that they wanted to topple the non-Congress governments and somehow get into power. Otherwise this would not have happened. That is my analysis of the situation.

Even the Home Minister, while intervening in the debate on the no-confidence motion, made a very curious claim for the Congress. He said, "You may deny whatever claim that we make, but one thing you cannot; that is, we were able to stick on to power for the last 22 years." That is one tall claim he made. Actually, I am afraid—he is welcome to have such a claim and he can enjoy it—that unfortunately that is the sort of tendency which is spoiling democracy in this country.

SHRI SONAVANE (Pandharpur) : When people vote us to power, why should we not stay in power? I do not understand.

SHRI S. KANDAPPAN : That is exactly what I am saying. We are misled to believe that defection started only after the 1967

elections. It was not so; it started much earlier. When the late Lal Bahadur Shastri was the Home minister, he was sent to Kerala...

AN HON. MEMBER : To seduce.

SHRI S. KANDAPPAN : I do not want to use wrong words. He alienated Mr. Thanu Pillai from the PSP and took him over as Governor and then the non-Congress Government in that State was toppled. So, this history started much earlier. They were all along power-hungry, ..

MR. DEPUTY-SPEAKER : The hon. Member's time is up.

SHRI S. KANDAPPAN : Sir, I have taken only seven minutes. I need three or four minutes more; not more than that. So, they have been after power. Naturally, they have not been able to be impartial or objective as they say that they try to be. Even Shri Hanumanthaiya said that there should be an objective appraisal. If there is an objective appraisal and if the Congress is principled enough, can they really defend all their actions that they have taken in Rajasthan, or in Bihar, or in Uttar Pradesh or in Madhya Pradesh or in West Bengal? Even their attitude towards the various parties in those States differs from each other. Even today I found in the papers that Shri C. Subramaniam from my State has resigned his position from the executive of the Congress party. In the very same paper I found one Congressman in Madhya Pradesh, the leader of the Congress party, Mr. Mishra, was proposing to stage a *dharna* in order to oppose the land development tax or something like that which the State Government is proposing to levy. If it is on principle, then how could they oppose it? Because his own Government at the Centre are proposing the agriculture wealth-tax. When the Congress subscribes to that issue, and when it proposes to levy so many taxes on agricultural commodities, fertilisers and all that, their representative in the State says that he is going to stage a *gheruo* or a *dharna* before the authorities simply because the non-Congress Government is there and somehow he tries to topple that Government. What is the principle? Is there any scant



respect for democracy in this kind of an attitude? What seems to worry there is, not that we are going to be toppled, not that so many non-Congress Governments are going to be toppled, but the trend seems to be that non-Congress Governments are getting more and more strength day by day and as they themselves have agreed or conceded a time will shortly come when a non-Congress Government may be formed even here at Delhi.

I would only appeal to them, and say that at the back of all these clashes, the real culprit is their power-mongering attitude. They are not able to reconcile themselves to their fate. In the best interests of the country, and democracy, they are not able to keep quiet at least till 1972.

So, in the interests of the survival of democracy, unless they reconcile themselves these facts and see that they respect certain canons, certain traditions and conventions, I am afraid these things will continue to grow and it will spell havoc to the democratic functioning and democratic structure of our nation. So, I would again appeal to the government to re-appraise the whole thing. I would rather say that we should do away with the office of Governor altogether. If it cannot be done, then we should evolve, in consultation with opposition parties of this country, conventions which will be acceptable to all parties.

**THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI GOVINDA MENON)** : Sir, during the few minutes at my disposal, I would like to steer clear of all political controversies which have been raised during this debate. I shall try to confine myself to what the Governor did and did not do on the 6th of March in the Legislature in Calcutta.

There have been opinions expressed by various Speakers that Governorship should be abolished, or other methods should be evolved for appointing Governors etc. it. It may be that by a consensus we may be able to evolve other better methods of appointing Governors. That is a different matter. But the fact is that on 6th March, and even today, the Constitution provides for Governors and article 176 of the Constitution provides that the Governor shall make a speech on the opening day of the first session; and the relations between the

Governor and the Council of Ministers are based upon conventions. I would like to remind my hon. friend, Shri Dwivedi that but for these conventions the Governor's speech under article 176 is likely to remain a mechanical statement as to why the House has been summoned, because the clause is that the Government shall "inform the Legislature of the causes of its summons."

During the last few years, in England, with the evolution of constitutional monarchy, conventions have been developed and we are following those conventions here. These conventions are not matters of law. Conventions have been defined authoritatively by text-book writers as political practices which evolve from time to time, and which are not part of the law.

Now I will not for a moment dispute that a Governor should read a speech prepared for him by the Council of Ministers. There is no doubt about it. I will just read the definition of 'Queen's speech' as given in a parliamentary dictionary by Abraham and Hotery, which may be considered to be authoritative in these matters.

**AN HON. MEMBER** : What about Ivor Jennings?

**SHRI GOVINDA MENON** : This is another book like that of Sir Ivor Jennings.

**AN HON. MEMBER** : But he is the Ivor Jennings of Kerala.

**SHRI GOVINDA MENON** :

"Queen's Speech : When the Queen opens Parliament at the beginning of the session, she reads the speech which is prepared for her by her Ministers and it sets forth the policy which they intend to pursue and the legislation which they propose to introduce during the session. In making the speech the Queen acts as the mouthpiece of her Ministers and they are entirely responsible for its content."

On this matter I am in complete agreement with Shri Dwivedi and other friends who have been moving, or are proposing to move, motions here. The Queen in England and the President and Governors in India act as the mouthpieces of the respective Cabinet in their jurisdictions. That is admitted.

[Shri Govinda Menon]

But there are also other conventions and once we begin to flout these conventions and forget these conventions, we would land ourselves in trouble.

Now there is a feeling, and that feeling has been given expression to, that the Governor is practically an automation, that the Governor is simply the mouthpiece of the Council of Ministers. But that does not appear to be the intention of the Constitution.

We have a provision in article 159 which says that the Governor shall take an oath that he shall defend, preserve and protect the Constitution. What is the significance of that oath? Otherwise, that article could have been substituted by another one saying that the Governor shall deliver or read out the speeches made by or prepared by the Council of Ministers from time to time. That is not how it has been done.

I would like to quote from a book on the Governmental System in the United Kingdom written by no less an authority than Mr. Herbert Morrison who was himself one of the Ministers for long in England. He says :

"The speech itself has been composed by the Government for it is a public declaration of Government policy and intentions for the coming session. The basis of the language is, what my Ministers think and propose to do. The Cabinet considers and settles the draft which goes to the Palace for the consideration of Her Majesty."

SHRI SURENDRANATH DWIVEDY : That is not done here.

SHRI GOVINDA MENON : This is the convention which we also should be supposed to be following. Let me continue the quotation : "Of course, he cannot upset the policy for that would be unconstitutional". If any of my friends here say that it is not these conventions which would apply but the written Constitution, then the speech of the Governor need not be written by the Council of Ministers. The speech of the Governor happens to be written by the Council of Ministers only because of conventions. Otherwise, article 176 will apply

which says that the Governor shall make an Address.

SOME HON. MEMBERS : No, no.

SHRI GOVINDA MENON : You have to understand or Constitution in the context of the conventions and political practices which have evolved in England and which have been followed in India. One of those conventions is that the Cabinet considers and settles the draft which goes to the Palace for the consideration of Her Majesty. Here also it was done. It was sent for the consideration of the Governor. Of course, Her Majesty cannot upset the policy for that would be unconstitutional. I will read a few more sentences from Morrison's book :

"Though she can raise questions about it. Certainly, the Sovereign can and often does make suggestions for revisions of wording, either it is because that would be better for delivery or to make the sentence more appropriate or attractive. All such suggestions from the Palace are given respectful and sympathetic consideration which is their due."

Therefore, the convention is that the Government drafts the speech for the Sovereign. Since those conventions apply in India, the Government drafts the speech for the Governor. It is open to the Governor to make suggestions and those suggestions are treated with respectful consideration which is due to the office held by the Governor. It has been reported in the newspapers—I have no direct information—that the Governor, after reading the draft of the speech handed over to him, did make certain suggestions, probably, with respect to the paragraphs which he omitted to read. The inappropriateness with respect to those paragraphs has been pointed out by Mr. Dandekar. I do not want to read them. But the following phrases occur in the two paragraphs which were left unread. What happened on the 21st November, 1967 has been characterised in those paragraphs as "peremptory and unconstitutional"

AN HON. MEMBER : Correct.

SHRI GOVINDA MENON : ..... "Unprincipled tempering with the Constitution,"

"questionable manoeuvres" and "un-ashamed defiance of the Constitution."

was he who acted indecently with the people.

These words are there, and with respect to these words if the Governor did point out that the use of these words with respect to certain events which have been the subject-matter of discussion in the High Court, as pointed out by Mr. A. K. Sen with great clarity and eloquence, and the High Court has held it in a certain manner, was not proper, what is wrong in it? I think, the Governor was fully within his rights to point out that to have these passages in the speech would not be appropriate. But for the hostility which the Government in West Bengal developed, very publicly developed, towards the Governor for the time being, I am sure that the respectful consideration which convention requires to be given to suggestions made by the Head of State who would have been given. The entire trouble arose on account of the fact that that respect and consideration which is due to the Head of State for the time being, who did an act of the greatest sanctity so far as these ministers are concerned...

AN HON. MEMBER : Sworn them.

SHRI GOVINDA MENON : Yes ; he had sworn them in office. Why was it that respect and consideration were not shown to him? They go and swear before him the oath which has been prescribed by the Constitution because he is the Constitutional Head of State. The question is why the respect and consideration due to the Constitutional Head of State was not being given by the ministers? It has been reported that, before the Governor read out his speech and skipped over certain portions, certain members of Legislature, including the Ministers and the Chief Ministers, struck to their seats without rising which is a mark of respect due to a Head of State (*Interruption*) I wish to point out that the Ministers who impugn the action of the Governor on account of the conventions which have come to be associated with respect to the relation between Governor and Council of Ministers, acted wrongly, acted in other than decent manner in not showing respect to the Head of State. (*Interruption*).

SHRI UMANATH (Pudukkottai) : It

SHRI GOVINDA MENON : I can understand if these had happened after he had skipped over those portions, but this was sometime before. There was hostility against the Governor, and the respect due to the office of Governorship was thrown to the winds long before all these things happened. This accounts for the whole trouble. Those who quote the Constitution and those who rely upon the conventions associated with the Constitution should remember that the conventions consist of a bundle of principles and not of one only. If those facts had been remembered, this trouble would not have happened. I will not dwell more on this matter. All the aspects have been referred to by some of the other speakers who preceded me. Therefore, I submit that, in the circumstances which prevailed on the 6th March, the action of the Governor does not call for any condemnation in this House.

SHRI H. N. MUKERJEE (Calcutta North-East) : Mr. Deputy-Speaker, we are citizens of a Republic which, I have to remind the Law Minister who has just spoken, happens to have a parliamentary democratic system...

SHRI SHEO NARAIN (Basti) : We will not hear him. He shouted last time... (*Interruptions*).

18.30 hrs.

[Mr. Speaker in the Chair]

SHRI NAMBIAR (Tiruchnappali) : Make him Governor of West Bengal.

MR. SPEAKER : Order, order. Has Shri Sheo Narain ever seen Shri Mukerjee rising and shouting? We should give him respect. He is incapable of such behaviour.

SHRI H. N. MUKERJEE : As I said, we are citizens of a Republic which happens to have a parliamentary democratic system which my hon. friend, the Law Minister, seems to have overlooked. Our case is that what the Governor of West Bengal has done on the 6th March, with the connivance, the encouragement and the active assistance of the Home Minister...

SOME HON. MEMBER : No, no.

SHRI H. N. MUKERJEE : ...is an act which contributed to undermining of the Constitution.

SHRI G. VISWANATHAN (Wandiwash) : Why do they disown ?

SHRI H. N. MUKERJEE : I therefore say that you either play the game of parliamentary democracy according to the rules or you make up your mind to have a confrontation with the masses across the barricades. If the Government at the Centre is spoiling for a fight, it can have it at any time, but as far as this discussion is concerned, we are confining ourselves to matters of constitutional relevance, and my submission is that the Governor of West Bengal has done something which is egregious.

From all the quotations given by the Law Minister, the crux of the matter was that the Governor's speech, like the Queen's speech in England, and the President's speech here, is a policy document prepared by the Cabinet.

SHRI GOVINDA MENON : Correct.

SHRI H. N. MUKERJEE : The whole question is : who is to guide the preparation of this document ? Is it the Governor or the President or the Queen or is it the Cabinet concerned ? That is the crux of the matter.

In regard to the position of the Governor, I do not know why my legal luminary friend over there, Shri Sen, waxed so eloquent after Shri Dwivedy who pointed out—and there was no answer to it—that under the Constitution, if we are to believe the *Commentary* by Mr. Justice Basu, who is supposed to be the authority, the Governor has no discretion except in relation to certain matters about Assam in the Sixth Schedule. Except for that, there is no discretion vested in the Governor ; he has no discretion. He has to act as the constitutional head of the State.

On this occasion, what has happened is that the spokesmen of the Congress Party and the spokesmen of their friends to my right, Shri Dandekar, have adduced two arguments which stand out. One, which

Shri Sen put forward, is that there is a Calcutta High Court judgment about the legality of what the Governor had done when he dismissed the earlier UF Ministry, and, therefore, nothing at all can possibly be said in regard to that matter. I do not know ; this kind of feeling for the judiciary magnified to the 9th degree might be fit some people who make their living by the law, but as far as the public are concerned, as far as political life is concerned, it just does not cut any ice. I say that because on that occasion an effort was made to find judicial determination of the rights concerned ; that effort has not ended because an appeal is pending before the Supreme Court. On this occasion, here is a political effort made publicly and constitutionally by the democratically-elected members of the legislature and their spokesmen in the Cabinet, and therefore, there is not the hint of a suggestion of defamation of the judiciary. Whether the UF Government did the right thing in language which they chose is a different matter. But the U. F. Government was surely within their right in putting their case the way that they did.

Shri Dandekar is concerned about his friend who happens to be the Governor. They had been members of the same service together. He asked : how do you expect the Governor to condemn himself out of his own mouth ? I want him to recall a little bit of constitutional history. Charles I, who had to lose his head, had to sign Bills of Attainder condemning men like Wentworth and Lords who were his dearest friends who were in power. It had to be done. Charles II had to sign thousands like that. Even Queen Victoria was told by Gladstone that she would lose her throne if she went against her ministers. Mr. Asquith, who was a Liberal Prime Minister during the time of George V, when the House of Lords had to be reformed and the King was trying to put obstacles in the way, said that if the King tried to get rid of his ministers, it would bring the authority of the Sovereign itself into jeopardy. I am quoting these words from the *Commentary* on the constitution by Mr. D. D. Basu. This has happened all the time Richard II and Edward II lost their throne. Charles I lost his head. The revolution of 1688 started a whole chain of incidents which brought about these conventions. If the Law Minister says that

the letter of the constitution says that the Governor can make a speech, how he does make it or does not is a different matter but he makes a speech, it is not that. These conventions which we say in the Constitution would be the conventions of the British House of Commons for good or for bad, these conventions you have got to accept, and these conventions are very clear. The Governor has got the duty of reading out what is prepared for him by the Council of Ministers.

My hon. friend, Shri Joshi had referred to the late Dr. Rajendra Prasad. It is common knowledge that Dr. Rajendra Prasad did not like the Hindu Code Bill. It is common knowledge that he publicly made a statement about getting clarification of the position of the President. It is common knowledge that a demand was made in Parliament to secure an amendment of the Constitution so that every action of the President shall be declared to be with the consent of the Cabinet, and then Pandit Jawahar Lal Nehru came forward in this House to give an assurance that that was the position under the Constitution, that such an amendment of the Constitution was not necessary. Are we going to allow Governors here and there—I am not going to make any particular reference to Mr. Dharma Vira especially; I had a resolution last year asking for his sack, he did not get the order of the boot on that occasion, I hope he will get it quickly—I am not going to make reference to him in particular, but are we allowing authority to the Governors to do what they like, because under the Constitution they cannot do it, they cannot take up this issue? And Mr. Asquith is quoted here in the Commentary on the Constitution by Mr. Basu:

“In the end the Sovereign always acts upon the advice which the ministers after, if need be, reconsideration feel it their duty to offer.”

The Law Minister told us that the Governor of West Bengal had referred certain matters back to his Council of Ministers for reconsideration. Whether they reconsidered the matter with kind of respect and honour which Mr. Menon expected of them, I do know. After all, the Governor had behaved in a fashion which the people could not tolerate. He had acted so indecently by the people that I can understand passions having

been roused. Perhaps the Governor's suggestions were not given respect and honour because the Governor did not deserve respect and honour. But, in the end here is Mr. Asquith's statement:

“In the end the Sovereign always acts upon the advice which the ministers after, if need be, reconsideration feel it their duty to offer.”

There are so many instances, I can quote from L. F. Crist who has written on The Parliamentary Government of Australia or from his book on Government and Parliament by Prof. Morris. He says for example; at page 75:

“It is beyond doubt that the Governor cannot alter the speech prepared for him by the Cabinet if the Cabinet is not willing to incorporate the changes suggested by the Governor.”

I can go on quoting authorities, but that is not the point. Are we going to vest in the Governor, an Officer who holds the white elephant of a Governor's Office which we wish to be abolished, most of us, that is a different matter, are we going to vest in the Governor who is not even coming under the impeachment of this House, who is not under any particular discipline so far as the Constitution is concerned, powers to override the Council of Ministers? Is it only because of the political vendetta which the Centre has against the democratic Government which had come to power, that the Government would go on sniping at them and encouraging efforts of this sort? That is the main problem. My time might possibly be up; that is why I do not want amplify. I only want to stress that if the Centre is spoiling for a fight they can have it any time; the people of certain parts of our country are more than ready; some are even enthusiastic about it now though they were ready all the time. (Interruptions. I have to remind the Government that we are functioning under a federal structure and the Centre may not like certain States. But in case you want the democratic polity to survive, you have to lump it. That is why I am extremely sorry that there was an element of cumbrous indecorum in the manner in which the Home Minister has managed this matter. He said in this House on one occasion that he was no adviser to the Governor. At the same time we have noticed in the papers statement which have not even been remotely contradicted that the legal

[Shri H. N. Mukerjee]

experts of the Central Government had said certain things in regard to this, upholding the action of the Governor and the name of the Attorney General who happens to be a friend of mine for more than forty years was dragged into the picture. I do not know whether it was correct in regard to the advice which he was reported to have given. The report appeared.

I also want to remind the Home Minister of what I heard from responsible press people that when the West Bengal Ministers—five of them—were here in Delhi and then went back to Bhangra Bhavan, plain clothes policemen were planted there by the Central Government. If that is true, I hope Mr. Chavan will contradict it publicly.

**THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) :** I contradict it straightaway.

**SHRI H. N. MUKERJEE :** I have been told so ; I am glad that I have been able to put it on record—(Interruptions.) I am accepting the contradiction. When I was told by responsible Pressmen in regard to the alleged presence of plain clothes policemen, it is my duty to draw the attention of the Home Minister and I am glad he contradicted it and I hope that the contradiction would reach the ears of the West Bengal Government who certainly would require that sort of re-assurance.

I do want, in the end, to emphasise that the position of the Governor is one to which we should not arrogate more powers ; that would bring incalculable consequences of the most damaging character, not only to the Constitution as it is today but to the entire functioning of the democratic policy in our country. That is why I say that what the Governor did in defying the wish of the Council of Ministers publicly and continuing the public controversy over it is absolutely unbecoming and unworthy of him and is completely unconstitutional. Therefore, something ought to be done about it. As far as I am concerned, I should like the order of the boot to be applied straightaway in regard to the Governor.

**SHRI J. B. KRIPALANI (Guna) :** Mr. Speaker, I hope I have not only your permission to speak but the permission

of the House also because I see that your permission alone does not count. I take it that I have the consent of the House to speak at this late hour. I am not a constitutional lawyer but I happened to be a Member of the Constituent Assembly. I know that our President is not like the King of England or the Queen of England. We do not want him to be so. I also know that we gave the Governor certain powers. Whether those powers given to him govern this case or not is the question. The question is not whether he has certain powers but whether those powers he exercised properly or not.

We must confine ourselves to the issue that is before us. It is whether the Governor did the right thing in deleting the two paragraphs under dispute or was he not right. That is the only question. The question of what the Government of India did or what the Home Minister did could be a different issue ; let us separate the issues.

Can any law or can any custom or convention cover all cases? No law in the world can cover all cases. Therefore, it is said that law is an ass. So this ass may be taken out of this assdom.

**SHRI NAMBIAR :** To be kicked.

**SHRI J. B. KRIPALANI :** A method has been found. When any case does not fall under the four corners of the law or the convention or the custom, what do the law-courts do ? They take the common sense view of the matter which is called in legal language, natural justice or equity. Equity is common-sense. Does our common-sense in this matter work or not ? This is a peculiar case. It has never arisen in England or any other democracy. It might have arisen in totalitarian regimes. But it has never arisen in any democracy that I know of. It is a peculiar case. Therefore, we must bring our common-sense to its solution. What does common-sense say ? (Interruption) I have asked your permission to speak. If they do not want me to speak, I will stop. Now, what is the common-sense view of things ? Even in a criminal court, a criminal is not required to incriminate himself. Is that true or not ?

**AN HON. MEMBER :** Very much true.

**SHRI J. B. KRIPALANI :** He is a criminal but he is not asked to incriminate himself.

**AN HON. MEMBER :** Even under oath.

**SHRI J. B. KRIPALANI :** Even if he does, the magistrate is not to take notice of it. Supposing I am accused of having committed a murder, and I say, "Yes, Sir, I have committed the murder." I may be protecting a brother of mine or a cousin of mine or somebody who has committed the murder. The magistrate or the judge is not to go by my word but by the evidence that is before him.

**SHKI H. N. MUKERJEE :** King Edward VIII had to sign the Act of abdication.

**SHRI J. B. KRIPALANI :** I am glad, and I congratulate this Government—what is called the United Front Government—that they did not *gheroo* the Governor, that they did not beat him, which they could have very easily done. But I must also congratulate the Governor that he went into this emotionalised and hostile House without taking any protection.

It is open to the United Front, for this dereliction of duty by the Governor, to hang him, as Charles I was hanged. That is what Mr. Mukerjee says. That is what my communist friends would like. But unfortunately, we are living in a country which is governed by some other laws than those of mediaeval times. But is it open to the UF Government to hang Mr. Dharma Vira. Why did not they do it? Because there is a Constitution in India, which does not provide for the hanging of the Governor. I have absolutely no doubt that with the emotions that are manifested here—greater emotions must have been there in Calcutta, because Bengalees are more emotional than people here.

**AN HON. MEMBER :** Home truth!

**SHRI KAMALNAYAN BAJAJ :** You know it to your cost.

**SHRI J. B. KRIPALANI :** Yes, I know it to my cost. I do not know what others'

wives do. But I at least know what my wife does.

Even Mr. Dwivedy has said that the Constitution is not clear as to how the Governor should be appointed, what should be his powers, etc. These questions do not arise now. For that, you must come before the House with some amending Bill for amending the Constitution. Now we have only to concentrate upon this one issue whether the Governor did right or wrong in not reading those two paragraphs. I think if any of my hon. friends there had been in that position.

**SHRI NAMBIAR :** We would have resigned.

**SHRI J. B. KRIPALANI :** They would have resigned. But what would have happened? Suppose the Government of India had allowed Ms. Dharma Vira to resign. They would have appointed a new Governor. What would have been put in the mouth of the new Governor? An abuse of his predecessor. This is confusion worse confunded. (*Interruptions*). Please do not interrupt. The Speaker gives me the last opportunity to speak, after all others have spoken...

**MR. SPEAKER :** A number of parties are yet to speak.

**SHRI J. B. KRIPALANI :** Yet, he wants that I should speak some wisdom.

My hon. friend says, they would have resigned. But they must understand the situation. If Mr. Dharma Vira resigned who would have been the Governor?

Somebody else would have been the Governor. If the two paragraphs had been put in that man's mouth and if he were a gentleman, he would have refused to read them. It is an absurdity; we are not talking common-sense.

If there is a convention—and we believe that there is a convention—that the Governor should read the speech prepared for him, and the Governor read the speech prepared for him without taking away a comma or a full-stop, everything, do we think that the Governor agreed with all that was written. No, he did not agree. But the omitted paragraphs were a condemnation of himself through his mouth, Even if he had condemned himself through his mouth, do our friends

[Shri J. B. Kripalani]

think that he would have felt sorry for what he had done? Why do you want confessions which are extracted at the point of the pistol? There may be countries where politicians who go out of power are obliged to confess to sins and faults which they might have never committed; I do not know. But we are not living under such regime.

I can say with authority that State Government are consulted whenever a Governor is appointed, because I know it. I know that they are consulted and only when they consent a Governor is appointed. If anybody wants to contradict me in this, he is free to do it but he would be wrong. When the Governor was appointed with the consent of the government, whatever government existed in Bengal at that time, how do you say that the Governor was not appointed in consultation with the State Government? I know positively that he is appointed in consultation with the State Government. So, this small issue, very limited issue, is before us.

The conduct of the Home Minister is not before us. What he did and what he did not do, we do not know... (*Interruptions*). If he did interfere you bring a vote of no-confidence against him. You did bring in the beginning of the session a vote of no-confidence. You can bring it again, if the Speaker allows you. I do not know whether so soon a vote of no-confidence would be admitted by the Speaker. If not, you have no remedy against it—the Home Minister is there and you cannot remove him.

SHRI NAMBIAR: We have to wait for the next session.

SHRI J. B. KRIPALANI: So, this particular issue must be taken as an exceptional occasion and we must bring our common-sense to bear on it. A man is not asked to condemn himself through his own mouth. My hon. friend, Shri Dwivedy, makes a distinction between the Governor and Shri Dharma Vira. By God's grace, or government's grace, they happen to be the same person. What do you gain by his making this confession? All right, he says that he is a damn fool. Does he feel it? How do you gain anything by that? How did the Front Government gain anything by his admitting that he had done something

atrocious, when they know, when everybody knows in India that he does not feel it?

What do you want? You want only conformity in words at the point of the pistol—you say if you do not use the words that we have used against yourself, you are behaving in an unconstitutional manner! "Yes, it is unconstitutional; but the situation itself is unconstitutional. If there is a custom, if there is a convention that the Governor should read the speech prepared for him by the Council of Ministers, there is also a convention that he must not incriminate himself in his speech.

That is also our convention. You cannot observe only one convention. You have to observe both the conventions. I am giving you a common-sense view of things without going into the legal complications. As I have said on another occasion here in this House, the lawyers are very clever people. They get a brief and they argue for it. There was somebody accused of murder and he was taken to a court of law. The prosecuting counsel began his case and proved that he was the murderer. The Magistrate then asked the accused whether he had committed the murder. He replied, "I have not committed the murder. But after hearing the arguments of the counsel, I feel that I have committed the murder." I am very sorry that Prof. Mukerjee should have constituted himself into a lawyer. I am not even talking of the High Court judgment. Let us bring our common-sense view to this particular issue as to whether a man must be obliged to condemn himself through his own mouth. Even criminals do not do it. I admit it may be a custom in certain countries under certain circumstances. But it is not a custom in our country. Therefore, I think, whatever was done under exceptional circumstances by the Governor was legitimate and we have no right to condemn it.

19 hrs.

SHRI SHIVAJIRAO S. DESHMUKH (Parbhani): Mr. Speaker, at the outset I may point out that the predecessor of the present Governor of West Bengal is listening to the debate from the gallery as to whether this House wants to meet justice and equity to her successor... (*Interruptions*)



श्री आर्चं करनेश्वरी (बम्बई दक्षिण) : अध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है। इस सदन में तकरीर करते हुए किसी भी माननीय सदस्य को गैलरी में कौन बैठा है उस का खिन्न नहीं करना चाहिए। माननीय सदस्य इसका जिक्र करके कि गैलरी में कौन बैठा है एक अनुचित व बिलकुल गलत काम कर रहे हैं।

SHRI SURENDRANATH DWIVEDY : He is referring to Miss Padmaja Naidu who is sitting in the gallery. *(Interruptions)*

MR. SPEAKER : We need not refer to galleries, whoever may be sitting there.

SHRI SHIVAJIRAO S. DESHMUKH : Sir, Prof. Mukerjee while accusing the Home Minister of conspiracy did refer to the British precedent where the parliamentarians of Great Britain killed the king and shouted, "The King is dead. Long live the King." For him, the Governor is a king in the medieval sense of the British Parliament who can be killed at the sweet will of the Parliament and yet the legislators will be entitled to claim that his successor will be appointed. Prof. Mukerjee thought it fit to address the House in that tone and he was reminded by the senior colleague of ours that we are not living in a medieval age. They want to treat the King not as a mere constitutional head in Great Britain but as a King in our Constitution who is merely entitled to privileges, salaries and a palace and has nothing to do with the parliamentary functioning of the Government. Not only that. According to Prof. Mukerjee, the Chief Minister of West Bengal wants to treat the office of the Governor as a pin on which he can adorn the flag of the Central Government on the collar of his coat. It is not so. He is neither the king who is merely entitled to palaces and privileges nor the pin to adorn the flag of the Central Government, but the kingpin of the Constitution which the framers of the Constitution have given to this country. The Law Minister merely referred to the precedent that whatever changes the king proposed as modifications to the royal Address received the highest consideration by the Council of Ministers. But he did not refer to the earlier paragraph of the same Constitutional pandit where he had said that

the Council of Ministers merely prepared a draft for consideration of the Head of State whether this should form the basis of pronouncement of the policies and programmes of the Council of Ministers. The Council of Ministers, according to the precedent, is empowered to submit a draft for the consideration of the Head of State. Is the Head of State to be denied the right of dotting the 'i's and crossing the 't's and suggesting it to be a little more generous, a little more courteous, not to him personally but to the Constitution of this country? The question before this House is whether or not the Governor is so entitled to do. As has been pointed out, the Governor is duty-bound to uphold the Constitution. And what is the Constitution? Constitution is one which is declared to be so by the High Courts and the Supreme Court of the country. When the High Court has given a specific finding on the constitutionality of the dismissal of a government and on the constitutionality of the reappointment of a government, if the Governor had a greed to the reading of those paragraphs which he had omitted, he would have been guilty not merely of harming the Constitution but, if I may say so, it would have been a rape on the Constitution; besides this, it would have been a gross contempt of court. Let there be no doubt in the minds of the Constitutional experts in this country that anybody who tampers with the Constitution and pronounces the Constitution to be otherwise than what is proclaimed by courts of law, the High Courts and the Supreme Court, he commits in terms of the law of the land a gross contempt of court. Therefore, the Governor has not merely saved the office of Governorship from committing contempt of court or from harming or damaging the Constitution, but he has also saved the Assembly and the Council of Ministers of West Bengal from so doing. The Chief Minister and the Council of Ministers, apart from having taken this unprecedented step of insisting on the Governor to declare that his earlier acts were unconstitutional even though those acts were declared to be constitutional by the High Court, have gone further and said that what the Governor has not read on the floor of the House forms part of the proceedings of the house. According to Parliamentary practice, only that which is said on the floor of the House can go on record as the proce-

[Shri Shivajirao S. Deshmukh]

dings of the House ; at least in India, that which is not uttered on the floor of the House, does not and cannot form part of the proceedings of the House. Yet, the West Bengal Assembly and the Speaker of the West Bengal Assembly have gone to the extent of saying that, in spite of the Governor's skipping over those paragraphs, in spite of the fact that the Governor did not utter those words, those paragraphs form part of the proceedings. In this, I have no doubt as a lawyer that the hon. Speaker of the West Bengal Assembly and even the Assembly are guilty of gross contempt of court—of the High Court of West Bengal. I really congratulate the Governor not only for having upheld the Constitution, for having protected the Constitution, but also for having done it against odds, against possibilities which would have harmed not only the office of Governorship but even the person and the body of the Governor. Therefore, I think that this House, as a matter of normal courtesy, should record its appreciation of the services of the Governor of West Bengal in the defence of democracy.

Now I will quote one small incident and finish. Shri Surendranath Dwivedy, who has moved this motion, was kind enough to afford his Constitutional facade and protection to the action of a Government which does not believe in Constitution, which believes in burning and overthrowing the Constitution ; not only this, he begs of this House equity and justice for that Government. Even according to Halsburi's laws of England, a man who goes to the court of equity has to come to the Court with clean hands. What are the hands of the West Bengal Government ? Though that Government has won through the ballot, with stray cases of bullets, still the very fact that it was sworn in ceremoniously and courageously by the same Governor who unceremoniously dismissed the same Government is the highest tribute which any democratic-minded person can pay to the office of the Governor and shows his determination to ensure the smooth working of our Constitution.

SHRI NAMBIAR : It is a disgrace to him.

SHRI SHIVAJIRAO S. DESHMUKH : If the Government was not satisfied by this

swearing in, they are guilty of contempt of Constitution. Those members of the Council of Ministers in West Bengal and those members of the legislature of West Bengal who did not rise when the Governor came to address the members of the legislature, are also guilty of gross contempt of the Constitution. On this sole act, the Governor would have been fully within his rights to dismiss the Ministry on the spot, and no court or forum in the world would held his action to be unconstitutional.

In the Constitution, the 'pleasure of the Governor' has not been defined. Deliberately so because our Constitution does not believe in putting artificial on the discretion of the Governor. When the Governor comes to a finding that though the Government enjoys the confidence of the legislature, it has in a fact forfeited the confidence of the people who are supposed to be represented by the Government in the legislature, the Governor has to use his discretion.

Therefore, I think the Governor if at all is guilty, is guilty of being too considerate to those who do not deserve any consideration ; he is guilty of too much leniency to those who deserve strong action.

Therefore, this House should uphold the stand of the Governor and stand behind him in what he did. I will only quote one sentence out of the two paragraphs which the Governor skipped over. In the first sentence, the Governor is supposed to condemn his own action in dismissing the previous Government. In the second, the Government at the Centre is accused of being what American jurists prefer to call 'accessories in fact.'

A distinction has been made between the action of the Governor and the concurrence of the Central Government with that action. Therefore the argument advanced by my hon. friend opposite to the effect that these paragraphs merely sought to condemn the action of the Central Government falls. They specifically sought to condemn the action of the Governor himself and then they went further and sought to condemn the action of the Central Government.

In these circumstances, it would not only have been foolish but foolhardy on the part of the Governor to act as a stereo-phonc machine to read out the address prepared by

the Government couched in these terms. The Governor was only expected to read the address which contained matters of policy and programme. Since it contained other matters which were irrelevant and improper, the Governor was fully within his right in not only skipping over them but in omitting them from his address.

**SHRI P. RAMAMURTI (Madurai) :** Arguments have been advanced that the UF Government in West Bengal wanted the Governor to condemn himself out of his own mouth. I am afraid those who make this statement do not understand the scope of the Governor's speech. It is well known that the Governor's address is not his own opinion. Any words put in there are not his own ; it is a well-understood convention and it is understood by all people that the speech is the opinion of the Council of Ministers, that is the government of the day.

Therefore, when in the speech the Governor says anything against himself, it is not his opinion ; it is the opinion of the Council of Ministers. Therefore, the question of condemning himself does not arise at all. If you separate this whole question from sentiment, this question will not arise.

Another argument is, how is this relevant ? My hon. friend, the Law Minister, also quoted from British authority. He said the Governor's speech must contain, as the Queen's speech must contain, a statement of government policy.

I want to point out that this is nothing more than a statement of policy, because what is the last sentence ? It clearly says :

"My government and my people of the State are anxious that there should not only be no repetition of such deplorable events, but that adequate safeguards should be provided in our Constitution to rule out such possibilities."

Therefore, it is a declaration of policy that this Government is determined to take all measures to see that the will of the people is not again subverted by those who are supposed to act in furtherance of the Constitution. In order to substantiate why such a declaration is necessary, why the government of the day should take steps in order to attain this objective, it was neces-

sary for them to narrate the events which had led to a situation where it is necessary for the government of the day to take such action. That is the simple question.

When finding no other argument, they talk of a judgment of the High Court. I want to point out that the issue involved is not a question like the fundamental rights of the citizen being infringed by somebody else. The issue involved in the events from November, 1967 is the fundamental question of the sovereignty of the people. Our Constitution clearly lays down in the Preamble :

"We, the People of India, having solemnly resolved to constitute India into a sovereign democratic Republic."

The issue therefore is the sovereignty of the people. Ultimately what is meant by the sovereignty of the people ? Sovereignty means that the people must be governed by their own chosen, elected representatives in whom they have got confidence. The question therefore was that in November, here was a Governor who subverted the Constitution by putting in people who did not enjoy the confidence of the people. Therefore, what he did in November was to attempt to subvert the sovereignty of the people of West Bengal as enshrined in the Constitution. This was the question that was put to test in the recent elections and there again the people decided by overwhelming numbers that what the Governor had done was subversion of the sovereign will of the people of West Bengal. In a question involving the sovereignty of the people, no Court is higher than the supreme will of the people. It is superior to the High Court of West Bengal, even to a Full Bench judgment of the Supreme Court. Therefore here is a question on which the people have declared in clear and unambiguous terms that their will has been subverted and they will not allow it to be done hereafter.

I find from the newspapers that today even many friends of the Congress Party are not prepared to justify what happened in November. Inside the Congress Party leadership itself today they are blaming one another. The Prime Minister says that she is not responsible. This man or that man is responsible. Therefore, why should it be left to my friend Shri Dandekar to suggest that what they did then was very correct ? I can understand Shri Dandekar. After all they are men of the same ilk,

[Shri P. Ramamurti]

ICS officers supported each other. What concept of democracy can a party of ICS officers have? Therefore, I am not now going into all the other questions.

Questions were raised in regard to the people not rising when the Governor entered. Here was a Governor who had subverted the will of the people, he acted unconstitutionally even on that day. I had pointed out that even before the dismissal of the Ajoy Mukerjee Government he deployed the police over the head of the government. After all, he was at that time the Chief Minister, but even before he was dismissed, the Governor alerted the police, and police were deployed throughout Calcutta. The military was alerted. Is it not a subversion of the Constitution? We also know how the other Ministry took office. Compare and contrast it with the popular Ministry. It took office at dead of night and the next morning the Chief Minister had to spend his time in the control room of the Commissioner of Police. Compare it with what happened a few days ago when the popular Ministry took office. Not thousands but hundreds of thousands of people were there all along the road. This is the difference.

At least let them have the humility to realise what the have done is wrong. They want this Ministry to show difference to this wonderful gentleman! I am glad that they did not go any further. As a matter of fact, if it had been left to the mercy of the people of West Bengal, he would have been mauled completely; it was to the credit of this Ministry that they restrained the people and appealed to them to keep the peace... (Interruptions.) Thanks to the good sense of the people, they listened to them...

AN HON. MEMBER : You are inciting the people of Bengal.

SHRI P. RAMAMURTI : It is not a question of inciting people. People were emotionally worked up.

After all, this Government knew that such a Governor could not get on with the Council of Ministers; ordinary human relationship could not exist between them. They talk of co-operation. The first thing they should have done as soon as this Ministry came into being was that they

should have come out with a statement : we understand that it will be difficult for them to get on ; therefore, we are recalling him. If they had made that statement, we can understand that. They were not prepared to do that. They say : the Governor has asked for a change. I do not know what that means. They say again : We are now actively considering the request of the Governor. If the Governor had not asked for a change, what is left to them is to work up a situation in West Bengal where the Governor cannot last for one single day, Is it what they want? At least now, do not stand on prestige. The Governor has no prestige left as far as the people of West Bengal are concerned or in the whole of the country. If you stand on false prestige, your own prestige will go down. Look at the way they do things. They say, not that they are considering the request of the United Front Government in West Bengal and in deference to their wishes they were recalling the Governor. They say the Governor has asked for it.

SHRI SHEO NARAIN rose—

SHRI P. RAMAMURTI : Everybody says that you are going as the Governor of West Bengal. You should not commit yourself to any course openly now.

SHRI NAMBIAR : A red carpet reception is awaiting him in Calcutta.

MR. SPEAKER : I am calling now a Member from the S. S. P. Shri Janeshwar Mishra. This is his maiden speech.

And he comes from a constituency which was once represented by the great Prime Minister Jawaharlal Nehru.

श्री जनेश्वर मिश्र (फूलपुर) : अध्यक्ष महोदय, आज सुबह मैं सैन्ट्रल हाल में अपने एक सम्मानित श्रीर बुजुर्ग सदस्य से बात कर रहा था। 10-15 दिन उनके बारे में सुनने के बाद मैंने उससे पूछा कि लोग आपको गवर्नर क्यों कहते हैं? उन्होंने कहा—\*\*

जो मुझे गवर्नर बना रहे हैं, वे मेरा मजाक कर रहे हैं।

\*\*\* मैं नहीं जानता कि उनको गवर्नर बनाने वाले लोग

\*\*\* या नहीं, लेकिन धर्मवीर को गवर्नर बनाने वाले निश्चित तौर से संविधान के साथ मजाक कर रहे हैं \*\*\*

श्री घोष प्रकाश त्यागी (मुरादाबाद) : अध्यक्ष महोदय, मेरा ज्वाइन्ट आफ आर्डर है। \*\*\*शब्द अनुचित है और पार्लियामेंट्री परम्परा के विरुद्ध है.....

MR. SPEAKER : Let him go ahead.

श्री जनेश्वर मिश्र : अध्यक्ष महोदय, मेरा मतलब.....

श्री तुलसीदास जाधव (बारामती) : अध्यक्ष महोदय, मेरी एक विनती है.....

SHRI RANDHIR SINGH (Rohtak) : There cannot be a personal attack. Under rule 352, there cannot be any aspersion. It should be expunged.

SHRI NAMBIAR : He is making his maiden speech in Parliament.

श्री तुलसीदास जाधव : अध्यक्ष महोदय, पिछले सात वर्षों से मैं इस पार्लियामेंट में हूँ.....

MR. SPEAKER : Under what rule ? He is a new Member, making his speech for the first time. I thought you would all give him some consideration. That is a wrong word. I myself was thinking that it is a wrong word. It should not be used.

श्री तुलसीदास जाधव : आप सब को पुस्तक लेकर खड़े होने के लिए नहीं कहते हैं, सब इसी तरह से खोलते हैं.....

SOME HON. MEMBERS Rose—

MR. SPEAKER : Order, order. There are two Congress Members standing. Kindly sit down. At least when the Chair is on its legs, you must sit down. Shri Jadhav said

that he has been here for a long time. That is right. That is a word which is not proper. I myself had said that. Therefore, I appeal to him not to use it. He is a new Member. For the first time he is making a speech here. If you want to raise your point of order even then, you are wellcome to do it. A point of order cannot be prevented by the Speaker.

श्री तुलसीदास जाधव : मेरी आपसे विनती है कि किसी भी किताब में यह शब्द चाहे अनपार्लियामेंट्री न हो, लेकिन इस आगस्ट हाउस में ऐसे शब्द का उच्चारण करना शोभाजनक नहीं है। वह इस हाउस में नये मेम्बर आये हैं, मेरी आपके द्वारा उनसे विनती है कि हम उनकी मेहनत स्वीच सुनने के लिए तैयार हैं, लेकिन शुरू में ही जो शब्द उन्होंने उच्चारण किया, वह बोलने की अयोग्यता को जाहिर करता है। मेरा उनसे यही कहना है कि हमारी तरफ सुनने वाले लोग, जो यहां मेजारिटी में बैठे हैं, वे कभी गड़बड़ नहीं करते हैं, सुनने के लिए बैठे हैं, लेकिन यदि ऐसे शब्द का प्रयोग होगा तो उसको चलने नहीं देना चाहिए।

श्री जनेश्वर मिश्र : मेरा मतलब \*\*\* किसी के चरित्र पर आरोप लगाने से नहीं था।... (बबखान) \*\*\* मैं संविधान के किसी भी हत्यारे को \*\*\* खराब काम करने वाला मानता हूँ। धर्मवीर साहब से जितनी संविधान की हत्या कराई गई है कलकत्ते में, उसको मैं मानता हूँ कि एक गन्दा काम है और इसलिए उसकी निन्दा करूंगा।

जिस दिन उनकी तकरीर होने वाली थी उस दिन एक आदमी ने मुझ से पूछा कि आज कलकत्ते में क्या होगा तो मेरे मन में एकायक प्रतिक्रिया आई और मैंने कह दिया कि कुछ नहीं होगा तो दर्शक दीर्घा से कोई लड़का टमाटर फेंक देगा। यह मैंने कहा। मैं आपको अपनी प्रतिक्रिया बता रहा हूँ, इसको आप बुरा मत मानियेगा। लेकिन यह प्रतिक्रिया एक दिन में

[श्री जनेश्वर मिश्र]

ही मेरे मन में नहीं आई। लड़कपन में जब मैं पढ़ता था तब अक्सर दिल्ली घूमने आता था और इंडिया गेट पर खड़ा होता था और वहाँ से राष्ट्रपति भवन को देखता था। राष्ट्रपति भवन अंग्रेजों के जमाने का बना हुआ है। वह वायसराय के लिए था। वह बहुत ऊँचे पर रहते थे और उसके नौकरशाह उसके बाद रहते थे और हिन्दुस्तान के लोकशाह की इमारत पर के नीचे तलवे पर थी। मेरे दिल में यह कचोट रहती थी जो कि उस दिन उस लड़के से कहने में आ गई प्रतिक्रिया के रूप में कि कोई दर्शक दीर्घा से टिमाटर फेंकेगा। तो उस ऊँची इमारत से लोकशाह का मजाक किया गया है। यह मजाक आम जनता बर्दाश्त नहीं करेगी। जनता ने वोट में उस मजाक को हरा दिया है। यह मैंने उस दिन कहा था। आप इस पर गौर करते रहियेगा कि यह हो क्या रहा है।

गवर्नर पर बहस चल रही है कि उसने क्या किया, गलत किया या नहीं किया? 3 तारीख की प्रोसीडिंग में श्री मधु लिमये के प्रश्न पर चव्हाण साहब का जवाब छपा हुआ है। यह हजरत कहते हैं... (श्रवण) तो आप जवाब में फमति हैं कि भारत सरकार का काम किसी गवर्नर के सलाहकार का काम करना नहीं है। तो दिल्ली सरकार किसी गवर्नर को सलाह नहीं देगी, सलाहकार का काम उसका नहीं होगा और ठीक उसी तरह से गवर्नर बंगाल की सरकार से, वहाँ की असेम्बली से सलाह नहीं लेगा फिर वह करेगा क्या? एक तानाशाह हो जायेगा। वहाँ पर मैं जोशी जी का भाषण सुन रहा था। जोशी जी के भाषण में साफ तौर से एक राय थी। यहाँ पर इस पूरी बहस में, धर्म-वीर के प्रकरण में, आप मानेंगे कि दो लाइन्स चल रही हैं। एक लाइन तो यह है कि केन्द्र को ज्यादा से ज्यादा ताकत दी जाये और दूसरी लाइन यह है कि केन्द्र की ताकत को विकेंद्रित किया जाये। संयुक्त सोशलिस्ट पार्टी दूसरी

लाइन वाली पार्टी है जो कि चौखम्बा राज्य में विश्वास करती है और चार पायों पर हिन्दुस्तान की सारी हुकूमत को खड़ा करने का सपना देखती है। जोशी जी ने कहा... (श्रवण)... एस० एस० पी० गद्दार पार्टी है या नहीं, किन्तु मैं जानता हूँ कि हिमालय की सरहद पर या श्री अब्दुल हमीद की जीती हुई जमीन को पाकिस्तान और चीन को देने के बाद अगर कोई गद्दार पार्टी हो सकती है तो वह कांग्रेस पार्टी हो सकती है। मैं नहीं जानता एस० एस० पी० गद्दार पार्टी है या नहीं... (श्रवण)... तो दो लाइन्स चल रही हैं। यह राय चलेगी लेकिन धर्मवीर साहब ने जो किया है वह काम, आप लोग गौर करेंगे, अभी हाल में हुआ है। भोपाल में श्री के० सी० रेड्डी साहब गवर्नर हैं। रेड्डी साहब ने यह कहा, जबकि गोविन्द नारायण सिंह की सरकार बननी थी, कि अगर आप अपना न्यूनतम कार्यक्रम लेकर देंगे संविद का तो हम तुम्हारी सरकार को न्योता देंगे। और आजकल एक कानूनगो साहब की सरकार पटना में बनी है, वहाँ भी कई दलों की सरकार गठित होने जा रही है लेकिन कानूनगो साहब उस सरकार से न्यूनतम कार्यक्रम वगैरह की मांग नहीं कर रहे हैं। इस प्रकार से आप गवर्नरों का दोहरा चेहरा देखेंगे। धर्मवीर से गोपाला रेड्डी और के० सी० रेड्डी से लेकर कानूनगो साहब तक जब आप देखेंगे तो पायेंगे कि दिल्ली की सरकार इस समय सारे सूबों में संविधान की हत्या करने के लिए और जनता की इच्छाओं, आकांक्षाओं के साथ मजाक करने के लिए एक-एक \* \* \* पाले है, गवर्नर के नाम पर, और उसके मलावा और कुछ नहीं है।

SHRI RANDHIR SINGH : Sir, he is calling the Governor\*\* which is highly objectionable.

श्रीमती सुशीला रोहतगी (बिल्हीर) : हमारे

नये सदस्य आये हैं और सारी शुभ कामनायें हमारी उनके साथ हैं। अगर इन्होंने अपनी अनभिज्ञता के कारण कोई शब्द प्रयोग किया था तो उसको हम भूल गये। लेकिन मेरा कहना है कि यह शब्द फालियामेंट्री नहीं है और मैं निवेदन करूंगी कि माननीय सदस्य इलेक्शन की स्पीच न करे और जिस सीट से चुन कर आये हैं उसके महत्व को समझते हुए एक गंभीर भाषणा देने की कृपा करेंगे।

**SHRI RANDHIR SINGH :** Sir, I raise a point under rule 352. The rule says that a member while speaking shall not reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms. So, under this rule, this should be expunged and the Member should be warned.

**MR. SPEAKER :** The hon. Member should confine himself to the subject. This is not a public meeting. He should address the chair; he should not look this side and that side.

श्री जनेश्वर मिश्र : इस समय दिल्ली की सरकार गवर्नर का इस्तेमाल हिन्दुस्तान के सारे सूबों में संविधान की हत्या और जन आकांक्षाओं को मारने के लिए कर रही है। इसलिए मैं इस सदन में जोशी जी और डब्लिकर साहब से विनती कर प्रार्थना करूंगा कि कोई ऐसी राय तजवीज करें कि गवर्नर का हक कमजोर हो, या इसका ओहदा भी चला जाय तो कोई बहुत बुरी बात नहीं है। अगर धर्मवीर साहब हट गये होते तो क्या बिगड़ जाता ? किसी भी गवर्नर के लिये उसकी तस्वीर के तीन पहलू हैं। एक तो यह कि वह राष्ट्रपति का एजेण्ट है। दूसरा पहलू यह है कि वह मंत्रिपरिषद् की सलाह से काम करता है। तीसरा पहलू है कि वह अपने विवेक से काम करता है ज्यादातर इस सदन में इसी पर बहस चली है कि गवर्नर का विवेक कहाँ तक बढ़ चढ़ कर है। मैं माननीय कृपलानी जी की इफ्तज करता हूँ क्योंकि वह आज्ञादी की लड़ाई में कुर्बानी देते रहे, किन्तु एकाएक उनको

कैसे सपना हो आया कि जो लोग धर्मवीर साहब की कार्यवाही के खिलाफ इस समय निन्दा का प्रस्ताव ला रहे हैं उसमें उनको कहीं फाँसी पर भी लटकाने की बात है। शायद यह साबित करने के लिए कि यह लोग फाँसी पर लटकाने वाले मध्य युग के लोग हैं उन्होंने यह सपना देखा। खैर उससे मेरा कोई मतलब नहीं। संविधान की धारारें हैं, उनमें एक तो अनुसूची 6 है जिसमें गवर्नर के कुछ अधिकार हैं, विवेक के सवाल पर अनुच्छेद 336 है जिसमें गवर्नर के बारे में कहा गया है कि जब कोई संबैधानिक संकट किसी राज्य में आ जाये तो वह रिपोर्ट देगा राष्ट्रपति से अपना शासन लागू कराने के लिये ऐसे ही एक धारा 200 है उसमें भी है कि किसी भी प्रान्त में जब दोनों सदनों से कोई बिल पास हो जाय तो उस पर दस्तखत करना रोक देगा राष्ट्रपति के यहाँ भेजने के लिये। लेकिन मेरी समझ में यह नहीं आया, जो माननीय सदस्य हमको बता रहे हैं कि सदन में कैसे बोलना चाहिये वह यह तो बतायें कि आप संविधान में किस जगह पर लिखा है कि कोई भी गवर्नर अगर उसका मंत्रिपरिषद् कोई नीति सम्बन्धी रिपोर्ट देता है तो उसमें कुछ हिस्सा निकाल कर पढ़ेगा ? आप के संविधान में कहाँ लिखा है। यह हमको समझाये।

अब उधर के वह हमारे मित्र लोग परम्परा की बात करते हैं तो मेरा कहना है कि गवर्नर के भाषण के बारे में परम्परा अभी आपके यहाँ कुछ नहीं बनी है। लेकिन यह जरूर है कि जो कुछ भी गवर्नर को आज तक दिया गया है वही उस ने पढ़ा है। यही परम्परा है और इसलिए मैं कहूँगा कि गवर्नर को हूबहू कौमा, फुलस्टोप के जैसा कि मंत्रिमंडल ने तैयार कर के दिया है वैसे ही बिलकुल पढ़ना चाहिये। इसलिए अगर परम्परा का सवाल किया जाता है तो इस के अलावा दूसरी कोई परम्परा अभी तक बनी ही नहीं है। इसलिए मैं अपने उन माननीय मित्रों से कहूँगा कि परम्परा वाली दलील हम को मत बतलाने देना।

[श्री जनेश्वर मिश्र]

यहां पर श्रीमन् मुझे ऐसा लग रहा है कि राज्यों में कांग्रेस पार्टी चुनाव में हार रही है और अपनी उस हार को छिपाने के लिए या अपनी शक्ति को बचाने के लिए संविधान को रबड़ की तरह यह खींचते हैं। उस में वह कुछ गवर्नरों की पावस बढ़ाते हैं और कुछ दूसरे अफसरों की पावस बढ़ाते हैं और ऐसा करके वह लोग इस संविधान की हत्या कर रहे हैं।

अपना चुनाव जीतने के बाद मैंने अपने निर्वाचन क्षेत्र में कहा था कि मेरी यह जीत सन् 1972 में कांग्रेस पार्टी के खात्मे की जीत होगी लेकिन मैं इस अवसर पर यहां यह कहना चाहूंगा कि अगर सरकार चलाने वाले लोग इस तरीके से संविधान की हत्या करेंगे और तानाशाही रास्ते पर चलेंगे तो यह निश्चित है कि 72 तो बहुत दूर रहा हिन्दुस्तान की जनता एक क्षण भी इन को बर्दास्त नहीं करेगी।

मेरे उन मित्रों को कभी कभी दम्भ भी आता है। दम्भ उन्हें यह आता है कि वह बहुमत में है। मैं जानता हूँ कि चूंकि यह यहां बहुमत में है और कांग्रेस पार्टी का बहुमत है इसलिए यह गृह-कार्य मंत्री द्वारा दिये गये पश्चिमी बंगाल के राज्यपाल के अभिभाषण के बारे में दिये गये वक्तव्य को और उन के मोशन को पास करा देंगे। लेकिन इस सदन में एक नये आदमी के रूप में आने के नाते मैं उन से यह निवेदन करना चाहूंगा कि अगर इसी तरीके से आँख मूंद कर उन्होंने सरकारी प्रस्तावों का समर्थन किया तो आप इस देश का बहुत अहित करने वाले हैं। अब बहुमत में आने के नाते जैसे उन्होंने यह कानून बना दिया है कि नसबंदी चलाइये या लूप चलेगा वैसे ही अगर यह कानून बना दें कि हिन्दुस्तान की आबादी बढ़ रही है और गल्ला कम है इसलिए 15 साल से कम उम्र के जितने लोग हैं या 60 साल से ऊपर के जितने लोग हैं उन सब को तलवार से काट दिया जायगा तो यह बहुमत उनका आँख मूंद कर हाथ उठा कर बैसा कानून पास करा देगा

लेकिन याद रखिये इसके लिए आप को हिन्दुस्तान की जनता माफ करने वाली नहीं है। चूंकि उन का बहुमत है इसलिए पश्चिमी बंगाल के गवर्नर के द्वारा केन्द्र ने उन से संविधान की हत्या करवाई है। इस तरह से धर्मवीर को शह देने और बचाने की कोशिश की है। अगर आज कांग्रेस पार्टी की यह दिल्ली वाली सरकार जरा भी विवेकशील होती तो यह सरकार धर्मवीर को उसी क्षण अर्थात् भाषण देने के दूसरे ही क्षण वहां से हटा देती और ऐसा करने से उस की इज्जत बढ़ती। यह अकेले धर्मवीर के भाषण का सवाल नहीं है या कलकत्ते की प्रेस-म्बली में क्या होता है इस की भी हमको ज्यादा फिक्र नहीं है बल्कि हम को तो फिक्र यह हो रही है कि मान लीजिये कि यह रास्ता खुल जाता है और अगले साल जब बजट सेशन होगा और यहां पर सेंट्रल हाल में राष्ट्रपति महोदय श्रीमती इंदिरा गांधी और चव्हाण साहब के तैयार किये हुए अभिभाषण में से 20 लाइंस छोड़ कर पढ़ेंगे तो उस हालत में इस सदन को क्या करना होगा और क्या नीति अपनानी होगी? इस चीज के ऊपर आप को विचार करना चाहिए। उस दिन क्या इसी बहादुरी के साथ वह राष्ट्रपति की हिफाजत करेंगे या उस के खिलाफ इम्पीचमेंट का प्रस्ताव लायेंगे? अगर राष्ट्रपति के खिलाफ आप इस तरह का इम्पीचमेंट का प्रस्ताव लायेंगे तो फिर आप को यह तय करना होगा कि गवर्नर के खिलाफ क्या किया जाय? आप लोग यह कहते हैं कि गवर्नर के खिलाफ इम्पीचमेंट का कोई विधान नहीं है। गवर्नर राष्ट्रपति का एजेंट होता है और राष्ट्रपति का एजेंट होने के नाते उस की सारी गलती की जिम्मेदारी दिल्ली सरकार पर आती है तो मैं यहां पर दिल्ली की केन्द्रीय सरकार के उन मंत्रियों पर आरोप लगाऊंगा जिन्होंने धर्मवीर साहब को बंगाल का गवर्नर बनाने की राष्ट्रपति को सलाह दी थी और मैं चाहूंगा कि यह सदन उन मंत्रियों को बर्दास्त करे चाहे उस



में चम्पारण साहब आते हों और चाहे श्रीमती इंदिरा गांधी आती हों। चूँकि मेरा समय समाप्त हो गया है इसलिए और अधिक न कहते हुए अध्यक्ष महोदय को धन्यवाद दूँगा और अपना स्थान ग्रहण करता हूँ।

SHRI R. D. BHANDARE (Bombay Central) : On a point of order, Sir, Under Rule 380, I want that the words, *ghaddar* and\*\* should be deleted from the records. At least the people should be spared. Let the history not know that we have decended so low as to use any word with the pretext that it is a maiden speech. Therefore, these words should be deleted.

MR. SPEAKER : What are the words to which you object ?

SHRI R. D. BHANDARE : The word\*\* should be deleted. The second word which I would like to be deleted and expunged is 'Ghaddar' which was used with reference to a party. The third word is \*\* which was used with respect to Governors ; he said\*\*. These three words should be expunged from the record. In the interest of maintaining the sanctity of the House, the dignity of the House, the record should be put straight. (Interruption).

SHRI MANUBHAI PATEL (Dabhoi) : He was also using the word 'agent' in a peculiar sense. That should also be expunged. (Interruptions).

MR. SPEAKER : Please sit down. There is no debate on this.

The first word is really bad ; it is not in good taste. Therefore, that will be removed. About the other word, I do not know whether he used it in connection with a particular Governor or generally in regard to Governors. If the reference is to Governors generally, there is nothing to be expunged. But if in regard to one Governor, a particular Governor, he said something derogatory, it should also be expunged. (Interruptions). If it is against any particular Governor mentioning the name, that is certainly very bad because he is not here, and that should also be expunged.

Now, we shall have to concluded in 10 or 15 minutes. The Home Minister has to reply. Then, the Mover has also the right of reply.

Shri Prakash Vir Shastri.

श्री प्रकाशवीर शास्त्री (हापुड) : अध्यक्ष महोदय, मैं इस प्रस्ताव को दो भागों में विभक्त करता हूँ। एक भाग इस प्रस्ताव का है पश्चिमी बंगाल, केन्द्रीय सरकार और उस के नेता। दूसरा भाग है पश्चिमी बंगाल के राज्यपाल श्री चर्मवीर और संयुक्त मोर्चे की सरकार का उन के साथ व्यवहार।

जहाँ तक पश्चिमी बंगाल का सम्बन्ध है, मुझे इस बात को कहने की आप अनुमति दीजिये कि पश्चिमी बंगाल में एक समय इस प्रकार के नेताओं की श्रेणी पैदा हुई जिस ने न केवल बंगाल का वरन् सारे देश का नेतृत्व किया है। एक ऐसा समय था जब बंगाल के पास सी. आर. दास जैसे नेता थे, सुभाषचन्द्र बोस जैसे नेता थे, डा० श्यामा प्रसाद मुखर्जी जैसे नेता थे, और उसी श्रेणी में डा० विद्यान चन्द्र राय जैसे नेता थे। बंगाल की अपनी एक परम्परा रही है। आज जो स्थिति बनी है, उस का मैं बहुत बड़ा कारण यह भी मानता हूँ कि बंगाल के पास आज उस स्तर का नेता नहीं रहा। लेकिन इस में मैं बंगाल को दोषी नहीं ठहराता। इसके लिए मैं दोषी ठहराना चाहता हूँ उन लोगों को। मैं आज उन से आत्म-निरीक्षण के लिए कहना चाहता हूँ कि बंगाल के अन्दर जो ईमानदार और चरित्रवान् व्यक्ति उभर कर आये उन के चरित्र-हनन का पाप उन में से कितनों पर है। यह आज हम अपने हृदय पर हाथ रख कर पूछें। वर्ना आज बंगाल की वह स्थिति न होती जिस को ले कर सदन में भी चिन्ता व्याप्त है और देश के कोने कोने में भी चिन्ता व्याप्त है।

दूसरी बात मैं कहना चाहता हूँ केन्द्रीय सरकार के नेताओं से जिस समय राज्यपालों की नियुक्ति का प्रश्न आया, उस समय वह

[श्री प्रकाशवीर शास्त्री]

भूल गये राज्य सरकारों से परामर्श लेते समय कि एक ऐसा समय भी आ सकता है जब देश में कुछ ऐसे भी राज्य हों जिन में कांग्रेस की सरकारें न रहें। उस समय ही यदि सरकार ने संविधान की परम्पराओं का पालन किया होता तो शायद पश्चिमी बंगाल को शिकायत का मौका न मिलता।

लेकिन इस से भी भागे बड़ कर जो तीसरी भूल मैं बतलाना चाहता हूँ वह यह कि राज्यपाल के पद और ऐसे व्यक्तियों के पद का कहीं कहीं दुरुपयोग हुआ है। उदाहरण के लिए मैं केवल एक स्थान राजस्थान को ही पेश करना चाहता हूँ। वहाँ एक ऐसे व्यक्ति थे जो आज दुनिया में नहीं हैं। मैं उसका नाम नहीं लेना चाहता। उनका सारा जीवन पवित्रता के साथ बीता। लेकिन अन्त समय में उस पद का दुरुपयोग उन्होंने वहाँ की कांग्रेस पार्टी का बहुमत बनाने के लिए जिस तरह किया उस के आधार पर मैं कहना चाहता हूँ कांग्रेस पार्टी के नेताओं से कि वह आज थोड़ा आत्म-निरीक्षण करें। इस प्रकार की स्थिति के पैदा होने में कहीं उन का ही तो किसी प्रकार से हाथ नहीं है।

मैं दो बातें विशेष रूप से कहना चाहता हूँ संयुक्त मोर्चे की सरकार और पश्चिमी बंगाल के गवर्नर के सम्बन्ध में। जिस समय संविधान निर्माताओं के सामने संविधान का ड्राफ्ट आया उस समय राज्यपाल के सम्बन्ध में यह कहा गया था कि राज्यपाल निर्वाचित प्रतिनिधि होगा। लेकिन संविधान सभा के सदस्यों ने इस बात को सर्वसम्मति से स्वीकार किया कि निर्वाचित प्रतिनिधि यदि राज्यपाल होगा तो केन्द्र के हाथ कबजोर रहेंगे। उन्होंने उस ड्राफ्ट में परिवर्तन किया और परिवर्तन करके संविधान की धारा 165 में यह नियत किया कि राज्यपाल राष्ट्रपति के द्वारा नियुक्त होगा। अब कम्युनिस्ट मार्क्सवादी पार्टी के सेक्रेटरी श्री सुंदरैया ने कल कलकत्ता के अन्दर एक वक्तव्य दिया है।

उन्होंने कहा है कि राज्यपाल निर्वाचित होना चाहिये। श्री सुंदरैया को केवल निर्वाचित राज्यपाल अपेक्षित नहीं है बल्कि श्री सुंदरैया की धारणा यह है कि भारत के संविधान में केन्द्र के मजबूत हाथों की जो परम्परा है, उस पर किसी प्रकार आघात होना चाहिये। उनका लक्ष्य पश्चिमी बंगाल के राज्यपाल श्री धर्मवीर नहीं है। उनका लक्ष्य केन्द्रीय सरकार और भारत का संविधान है। हां कहीं अगर वह इस प्रकार से राज्यपाल के निर्वाचन की प्रक्रिया को पुष्ट करते जैसा कि राज्य सभा में श्री चागला ने कहा है तो शायद हम उस पर विचार भी करते। लेकिन श्री सुंदरैया के भाषण में इस प्रकार का दृष्टिकोण परिलक्षित नहीं होता है।

दूसरी बात यह है कि पश्चिमी बंगाल के राज्यपाल के भाषण के दो पैराग्राफ्स नया हैं जिनको उन्होंने पढ़ा नहीं है अथवा जिन को उन्होंने छोड़ दिया है? अगर मेरे पास जो इनका हिन्दी अनुवाद है वह सही है तो इसका निर्गमन मैं सदन के माननीय सदस्यों पर ही छोड़ना चाहता हूँ कि नया उन्होंने ऐसा करके ठीक किया है या नहीं। एक पैरे के शब्द यह हैं :

“आप सब को मालूम है कि किस तानाशाही और असंवैधानिक ढंग से जनता द्वारा चुनी गयी मोर्चा सरकार 21 नवम्बर, 1967 को इस शक्ति सम्पन्न संस्था से अनुमति प्राप्त किये बगैर बर्खास्त की गई।”

इसी पैरे के दूसरे शब्द ये हैं :

“राज्य की जनता को यह जान कर धक्का लगा कि इस लोकतंत्र विरोधी कार्य को केन्द्र सरकार का पूर्ण समर्थन प्राप्त था।”

दूसरे पैरे के जो अंश हैं, उनको मैं पढ़ कर अब आपको सुनाना चाहता हूँ :

“जिन्होंने बेशर्मी के साथ संविधान का

उत्संघन करते हुए अज्ञात अपने हाथ में ली, शहरों गांवों, औद्योगिक केन्द्रों और शिक्षा संस्थाओं में लाखों लाख लोग लोकतन्त्री आन्दोलन के लिए बाहर निकल पड़े।"

अब मैं सदन के विवेक पर ही इस बात को छोड़ना चाहता हूँ कि श्री धर्मवीर जैसा व्यक्ति जिसके हाथ में भाषण के ये अंश पढ़ने के लिए दिये गए वह अपनी असफलता या अपने लिए इस प्रकार के विरोधी प्रमाणपत्र को इस भाषण को पढ़ कर कैसे ले सकता था ?

मैं अपने मित्रों से एक और बात भी कहना चाहता हूँ। इस भाषण के बाद पश्चिम बंगाल की विधान सभा ने एक धन्यवाद का प्रस्ताव पास किया है। उस धन्यवाद के प्रस्ताव में ये शब्द रखे हैं कि राज्यपाल ने असंबैधानिक ढंग से जो दो पैसे छोड़ दिये हैं, इसके लिए यह सभा खेद प्रकट करते हुए राज्यपाल को धन्यवाद देती है। समझ में नहीं आता है कि इस धन्यवाद प्रस्ताव का क्या अर्थ होता है। एक और तो राज्यपाल को धन्यवाद दिया जा रहा है और दूसरी ओर राज्यपाल की असंबैधानिक कार्यवाही की आलोचना भी की जा रही है। समझ में नहीं आया कि असंबैधानिक कार्यवाही भी राज्यपाल कर रहे हैं फिर भी उनको धन्यवाद दिया जा रहा है। फिर मेरे मन ने कहा कि इस पार्टी का तो अपना यह इतिहास है कि असंबैधानिक कार्य करने पर ही यह धन्यवाद देती हैं। यदि उन्होंने इस प्रकार का प्रस्ताव पास किया है तो इस में उनका अपना कोई दोष नहीं है, उनकी परम्पराओं का ही दोष है।

अपनी बात को समाप्ति की ओर ले जाते हुए, आप मुझे आज इस कटु सत्य को कहने के लिए इस सदन में आज्ञा दीजिये कि पश्चिमी बंगाल के राज्यपाल के खिलाफ अगर किसी ने असन्तोष को आमंत्रण दिया तो भारत की प्रधान मंत्री श्रीमती इंदिरा गांधी ने दिया था जिस समय वह शान्ति निकेतन विद्वत्विद्यालय में दीक्षान्त भाषण देने के लिए गईं तो वहाँ उन से पूछा गया कि पश्चिम बंगाल के राज्य-

पाल को हटाने के सम्बन्ध में आपको क्या कहना है। श्रीमती इंदिरा गांधी ने उत्तर दिया कि अभी किसी ने लिखित रूप से हमारे पास आवेदनपत्र नहीं भेजा है। उस समय अगर श्रीमती इंदिरा गांधी ये शब्द कहतीं कि राज्यपाल राष्ट्रपति का चुना हुआ प्रतिनिधि है। राष्ट्रपति के विवेक में किसी दूसरे को निर्णय देने का अधिकार नहीं है। इससे तस्वीर का रूख ही दूसरा होता। इन शब्दों को कहने के बजाय श्रीमती इंदिरा गांधी ये शब्द कह गईं कि अभी किसी ने हमारे पास लिख कर नहीं भेजा है। ऐसा कह कर उन्होंने असन्तोष को स्वयं आमंत्रण दिया। इस सरकार ने इस प्रकार की अस्वस्थ परम्परायें समय समय पर डाली हैं।

अभी कुछ समय हुआ जब प्रधान मंत्री का निर्वाचन हुआ उस समय कुछ प्रांतों के मुख्य मंत्रियों को यहाँ बुलाकर बिठा लिया गया और संसद् सदस्यों के विवेक पर प्रधान मंत्री के चुनाव को न छोड़कर मुख्य मंत्रियों के प्रभाव का उपयोग किया गया। अब अगर इस प्रकार की स्थिति हो रही है तो उसके कारण दुखी क्यों होते हो ? इन अस्वस्थ परम्पराओं को डालने में आपका भी कितना हाथ रहा है इसको भी थोड़ा अपने गिरहबान में मूँह डाल कर आप देखो। पश्चिम बंगाल की सरकार के कहने पर आपने पश्चिम बंगाल के गवर्नर श्री धर्मवीर को हटा दिया तो आगे चल कर इसका क्या परिणाम निकलेगा ? श्री चट्टाण के उस दिन के वक्तव्य को सुन कर मुझे बड़ा आश्चर्य हुआ। इस में उन्होंने कहा था कि छः मार्च तक उनको हटाने का कोई विचार नहीं है। इसका मतलब यह है कि छः मार्च के बाद उनको हटाने का आपका विचार है। आपको स्पष्ट भाषा में कहना चाहिये था कि राष्ट्रपति के द्वारा नियुक्त किये गये राज्यपाल को हटाने के बारे में हम कैसे कोई अवधि निर्धारित कर सकते हैं। इसको कहने के बजाय उन्होंने कहा कि छः मार्च तक हटाने का कोई विचार नहीं है। मैं समझता हूँ कि हमारे नेताओं और

[श्री प्रकाशवीर शास्त्री]

विशेष कर मंत्री पदों पर बैठे हुए व्यक्तियों की जो भाषा है वह बड़ी संयत और संतुलित होनी चाहिये।

उन के शब्दों के ऐसे अर्थ भी निकाले जा सकते हैं, जो कि अवांछित हों। मैं सरकार से कहना चाहता हूँ कि अगर उस ने पश्चिमी बंगाल के गवर्नर को एक सरकार के कहने पर हटाया, तो वह देश में असंतोष को जन्म देगी। कल मध्य प्रदेश और बिहार में भी ऐसी ही माँग उठने वाली है। अध्यक्ष महोदय, मैं तो आप के माध्यम से महामहिम राष्ट्रपति जी से यह कहना चाहता हूँ कि यदि वह अपने नियुक्त किये हुए अपने प्रतिनिधियों के गौरव की रक्षा नहीं कर सकते, तो उन्हें इस पद को ही समाप्त कर देना चाहिये। अगर संविधान की मान्यताओं के अनुसार राज्यपाल के पद को बनाये रखना है, तो राज्यपालों के गौरव और गरिमा की रक्षा करनी चाहिये।

आज जब यह प्रश्न उठ ही गया और सारे देश में चर्चा का विषय बन गया है, तो मैं गृह मंत्री को, उप प्रधान मंत्री को, जो कि सदन में बैठे हुए हैं, और सरकार को कहना चाहता हूँ कि उन्हें इस प्रकार की स्वस्थ परम्परायें कायम रखनी चाहिए। जिस से यह प्रश्न फिर न उठे और लोगों में चर्चा का विषय न बने।

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : Mr. Speaker, Sir, the other day, when you decided to have this debate, you very rightly said that the constitutional aspects of the problem and the academic aspects of the problem would be very carefully considered during this debate. I must say the first half of the debate was very useful from this point of view, and the basic, constitutional issue of this debate was this, namely, the constitutional position of the Governor in the whole set-up of the Constitution, and the other aspects of the problem that was considered by the House was the specific action of the Governor of West Bengal in omitting two paragraphs from the address that he was to deliver on

the 6th March. I think these are the two aspects to be considered.

When I came to listen to the debate, I came with an open mind. I really wanted to know the position that would be taken : of course, as a Government we are committed to a certain argument, but I was in my personal capacity open to being convinced in the sense that I wanted to see whether the arguments indicate a final conclusion. From this point of view, I must say that the honours of this debate go to Mr. Asoke Sen and Mr. Govinda Menon.

SHRI NATH PAI (Rajapur) : You have reached this conclusion even before you heard the debate !

SHRI Y. B. CHAVAN : I came to this conclusion before I got up ; that is true ; but it was after listening to the speeches. What is the issue here when we are discussing this particular matter ? The issue is not political ; some people unnecessarily attach importance to it. Certainly they have advanced political arguments. But the issue was whether the action that the Governor of West Bengal took in 1967 was constitutional or not. And on that issue the High Court of Calcutta had given its verdict. Whether that verdict is right or wrong can only be challenged and decided in the Supreme Court which is higher than the high courts : whether this is to be done through the interpretation of the constitutional verdict or whether it can be decided in a legislature of the State Government.

The only body which has the right of amending the Constitution is this House, and no other legislature. The legislatures have their own powers and they are sovereign in their own respective fields of rights, etc., but they have no constitutional power to interpret the Constitution or even amend the Constitution. In this matter I must say that the constitutional position, as far as I can see, is very clear. The point is whether by putting those words in the mouth of the Governor—they could have interpreted the Constitution as they liked. It is very clear : that this was a completely unconstitutional position.

The other aspects was whether the

Governor had the right to omit two paragraphs in the address he was supposed to deliver.

The constitutional aspects of the nature and character of the address of the Head of State while opening a joint session have been gone into very carefully. It is a public declaration of policy that the Government wants to follow in the coming year. This is what the address is expected to say.

Some hon. members have tried to quote the two paragraphs out of context. But if we read them completely as a whole, they try to give a verdict on what happened a couple of years ago. The address is supposed to look to the future and to the present. But the two paragraphs tried to interpret history as they liked or did not like it.

AN HON. MEMBER : Who is to decide it ?

SHRI Y. B. CHAVAN : The Constitution itself has decided it. The nature of the speech was supposed to be a statement of the causes of the summons. Naturally the summons is supposed to look to the present and to the future. The Governor was not supposed to write a history ...

श्री जाजं करनेकीछः राष्ट्रपति लिखते हैं  
फसल बहुत ही अच्छी है तो वह क्या है ?

श्री यशवन्त राव चव्हाण : "अच्छी है"  
के माने हैं प्रेजेन्ट ।

The constitutional aspects appear to be very clear.

I do not want to say a word which will come in the way of the relations of the newly elected Government of West Bengal and the Central Government. I do not want to look to the past ; I want to look to the present and the future. I do not want to make any statement which will unnecessarily create bitterness and put obstacles in the way of co-operation between the rightly elected Government of the State and the Central Government. I do not want to go into those aspects, though some members used a very uncharitable expression that the Governor deserved the order of the boot. It is a fashionable phrase with my hon. friend, Mr. Mukerjee particularly. He is free to use the language of the boot, but I do not want

to repeat such phrases. The UF Government in West Bengal have their constitutional rights and within those constitutional rights, they have to use that mandate for the development of West Bengal in the right manner. They are entitled to do that. But I do not understand why they should have a complex of defeat. When they have won, it is much better they behave like victors. Why this idea of trying to humiliate the Head of the State ? That too, after I made the statement on the floor of the House ? What really mattered to them was the fact that the Governor had made a request to the Government of India, to the Prime Minister, that he wanted a change on personal grounds and it was said that the Government of India was considering his request.

DR. SURYA PRAKASH PURI  
(Nawada) : Why the Prime Minister ? It should be the President to receive the request from the Governor ?

SHRI Y. B. CHAVAN : She represents the Government and it is on the advice of the Government that the President acts. That is an elementary aspect of the Constitution and if he does not know it, I cannot help it. It is elementary political understanding that the issue ought to have been left there. The question of creating this sort of personal tension and bitterness was not called for.

And the unfortunate controversy that has been raised afterwards is neither complimentary to this Government and to this House nor to that government and to that House. It is a very unpleasant part of the events and I would request this hon. House to forget it. Let us really forget this matter.

SHRI NAMBIAR : Forget and forgive also.

SHRI Y. B. CHAVAN : As far as I am concerned, I have always forgiven you.

SHRI UMANATH : You have not forgiven the Central Government employees.

**SHRI Y. B. CHAVAN :** The constitutional issues are very clear. But I am not dealing with the constitutional aspect ; I am dealing with the political aspect of the problem, because ultimately the mandate for this government, or mandate for any government for that matter flows from it, whatever may be the philosophy. I have nothing to say about the philosophy. Shri Ramamurti tried to interpret it in a different way. Shri Hiren Mukerjee went to find examples from the medieval history of Charles, Richards and Edwards. Let us forget all that history ; let us deal with Mukerjee's, Trivedi's and Ramamurthi's, the present and the future. Let us think about that.

I would only tell them one thing. Now that you have won, use that victory for the betterment of Bengal, for strengthening the relations of Bengal with other States and, ultimately, strengthening the unity of this country and strengthening the democracy of this country. This, really speaking, is your mandate and you have to use it.

But, in spite of the victory, some people sometimes forget that they have won. My hon. friend, Shri Asoke Sen gave the example of war-time leader, Sir Winston Churchill. I was reminded of another statement by another esteemed leader, of course a century before, Napoleon. When he was fighting the Britishers...

**SHRI UMANATH :** You are going beyond the medieval age.

**SHRI Y. B. CHAVAN :** What could I do ? You understand only the language of the medieval age. That is why I am going into it ; otherwise I would not have liked to refer to it.

The difficulty of the Britishers then was that many a times Napoleon had defeated the Britishers ; but every-time the Britishers made preparation and started a war with Napoleon. So, once Napoleon said in a very typical remark "Britishers never know when they are defeated because Britishers have never understood what defeat was." I may say with a little change that my United friends never understand when they are victorious, because they have developed a complex of defeat so long. Really speaking, they should know they are victorious. So, why start this this minor controversy about what happened two years before ? Be

magnanimous, be sportive to the Governor. Let us go ahead, let us accept a constructive programme, let us accept the constitutional way, let us strengthen the unity of India, let us strengthen the welfare of the people of India because, really speaking, these are the issues that are involved. Unnecessarily going into other aspects and creating further bitterness is something which, really speaking, should be avoided.

**SHRI NAMBIAR :** It is not so simple.

**SHRI S. KANDAPPAN :** Suppose a State government makes a plea that the Constitution should be amended, is it unconstitutional. Of course, the State Government has no right or power to amend the Constitution. But it can make such a request. Is it wrong on the part of the State to make such a request ?

**SHRI Y. B. CHAVAN :** I have never said that the State has no right to make such a plea. My only statement was that the State Legislature cannot start amending or interpreting the Constitution. That is my limited submission. What Acharya Kripalani said was, really speaking, a very elementary thing of human psychology. Can you expect a man, particularly a man of a Governor's status, to come forward and say that he had made all these mistakes ? It was incompensible. Nobody would have done that.

As I said, I do not want to go into the details and create further problems for the United Front or the Central Government. I would only say that having debated this whole issue from the constitutional and political point of view, the hon. mover should be sportive enough to withdraw the motion and if the hon. Members of the opposition do not do that, I would request the hon. House to reject it.

**SHRI SURENDRANATH DWIVEDI (Kendrapara) :** Mr. Speaker, Sir, the appeal of the Home Minister would have some influence on me if actually he had replied to the points raised in the debate. He made just a political speech. Probably, he had no points to answer them. By no stretch of imagination, he would have said that what Mr. Govinda Menon and Mr. A. K. Sen said was the best aspect of the whole debate. I

was expecting Mr. A. K. Sen; as a constitutional lawyer of eminence, that he will point out a place in the Constitution wherein lies the power of the Governor to use his discretion in a manner in which the Governor of West Bengal used it in this matter. No one amongst them has come out even with a precedent or interpretation of any Constitution or of any authority to show that the Governor has the power to delete or omit the paragraphs. That is the main point at issue, that he did act in an unconstitutional manner which was beyond his powers.

Sir, Mr. Govinda Menon was quoting against himself. When he was quoting Mr. Morrison, he accepted the plea that it is the Cabinet which prepares the draft, it is the Cabinet, the Council of Ministers, which finalises the draft and which is sent to the Governor for his suggestions. That is what he said. But nowhere he quoted the authority, whether the Governor has the power, even if that objection is over-ruled or not accepted by the Cabinet, not to read it and omit it. Where does he get the power? Then, he conveniently avoided quoting the other portion which says:

"It is, therefore, beyond doubt that the Governor cannot alter the speeches prepared for him by the Cabinet if the Cabinet is not willing to incorporate the changes suggested by the Governor."

He conveniently avoided quoting this portion from Mr. Morrison's book. The whole question remains to be considered. Let alone the political aspect of it. As I said at the end of my speech, we should all seriously consider whether the office of the Governor should be utilised for such purposes and, if not, how can the dignity and the position given in the Constitution be preserved. What procedure and what conventions should we establish?

I am completely unconvinced of what has been said about the discretion of the Governor. Much has been made about the judgment of the High Court. Mr. A. K. Sen quoted some portions from the proceedings of the High Court also. I beg to submit that what was stated in the Address which was to be read by the Governor was no comment on the judicial pronouncement. There was no such thing.

I may remind my friends, if they have any memory left, that the Presiding Officer's

Conference presided over by you, Sir, even after the High Court's verdict, passed a resolution—I do not know whether West Bengal Speaker Mr. Banerjee was present in that Conference or not—that excepting the Assembly or the legislature, no other authority, without the test of the majority in the House, has a right to dismiss a popularly elected Government. This is a verdict given by the Presiding Officers' Conference attended by all Speakers of Legislatures. My friends want to suggest that since the High Court did it, the Speakers have no right to do it. What was involved in this? I repeat it was the Governor who committed a mistake. The mistake is this that he becomes sensitive. That is how some of our friends who supported him are taking in that light. It was unnecessary for the Governor to feel sensitive about it as if he was the custodian of the political system of the Centre and to defend his personal dignity in a manner which involves gross violation of the Constitution.

The sum-total of the whole debate seems to be that the questions raised in the debate remain unanswered. Unless we disapprove such a conduct, unless the Parliament itself resists it and considers the matter, I do not think this Government will ever realise that they are really, if I may say so, violating the Constitution and creating a precedent which will not augur well for the future.

Therefore, I am unable to accede to his request to withdraw this. But I am prepared to accept the substitute motion moved by Shri Tenneti Viswanatham. I hope the House would accept my motion with that substitute motion.

MR. SPEAKER: The substitute motions have to be put to the vote of the House. May I put Mr. Mukerjee's motion to the vote of the House?

SHRI H. N. MUKERJEE: Since the mover has accepted the other substitute motion, I do not want to press mine.

*The substitute motion No. 1 was, by leave, withdrawn.*

MR. SPEAKER: Is Mr. Rabi Ray pressing his substitute motion?

SHRI RABI RAY : No.

*The substitute motion No. 3 was, by leave,  
withdrawn.*

MR. SPEAKER : Mr. George Fernandes.

SHRI GEORGE FERNANDES : I also withdraw my substitute motion.

*The substitute motion No. 4 was, by leave,  
withdrawn*

MR. SPEAKER : I now put Mr. Ten-  
neti Viswanatham's substitute motion to the  
vote of the House. The question is :

'That for the original motion, the follow-  
ing be substituted, namely :—

"This House, having considered the  
statement made by the Minister of Home  
Affairs on the 6th March, 1969 regarding  
the Address by the Governor of West  
Bengal to both Houses of the State  
Legislature assembled together on the  
6th March, 1969, is of the opinion that  
the action of the West Bengal Governor  
in skipping over parts of the Address to

the Assembly and Council Members  
made on the 6th March is against  
the spirit and letter of the Constitution  
and disapproves of such action on the  
part of a Governor". (2)

*The motion was negatived.*

#### BUSINESS ADVISORY COMMITTEE

##### Thirty-first Report

THE MINISTER OF PARLIAMEN-  
TARY AFFAIRS, AND SHIPPING AND  
TRANSPORT (SHRI RAGHU RAMAIAH):  
I beg to present the Thirty-first Report of  
the Business Advisory Committee.

MR. SPEAKER : The House stands  
adjourned till 11 A. M. tomorrow.

20.18 hrs.

*The Lok Sabha adjourned till Eleven of  
the Clock on Tuesday, March 11, 1969 [Phal-  
guna 20, 1890 (Saka)].*